

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

4	KEVIN COOPER,	)	Case No. 04CV0656-H(LSP)
		)	
5	Petitioner,	)	San Diego, California
		)	
6	vs.	)	Friday,
		)	August 6, 2004
7	JILL L. BROWN, ACTING WARDEN,	)	1:00 p.m.
	SAN QUENTIN STATE PRISON,	)	
8		)	
	Respondent.	)	
9		)	

TRANSCRIPT OF MISCELLANEOUS HEARING
BEFORE THE HONORABLE MARILYN L. HUFF
UNITED STATES DISTRICT JUDGE

APPEARANCES:

15	For the Petitioner:	DAVID T. ALEXANDER, ESQ.
		MBV Law
16		855 Front Street
		San Francisco, California
17		94111
		(415) 781-4400

19	GREGORY EVANS, ESQ.
	Orrick, Herrington & Sutcliffe
20	400 Sansome Street
	San Francisco, California
21	94111
	(415) 392-1122

Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

1 APPEARANCES: (Cont'd.)

2 For the Respondent:

3 HOLLY WILKENS, ESQ.
4 Office of the Attorney General
5 110 West A Street, Suite 1100
6 San Diego, California 92101
7 Deputy Attorney General
8 (619) 645-2001

9 Transcript Ordered by:

ADRIANNE DENAULT, ESQ.

10 Court Recorder:

11 Nancy Cablay
12 United States District Court
13 940 Front Street
14 San Diego, California 92101

15 Transcriber:

16 Cheryl Peters
17 Echo Reporting, Inc.
18 6336 Greenwich Drive, Suite B
19 San Diego, CA 92122
20 (858) 453-7590
21
22
23
24
25

I N D E XWITNESSES:DIRECT CROSS REDIRECT RECROSSFor the Respondent:

Donnie Rose Eddings	3	13	39	--
Richard Charles Krupp	51	62	72	--
Albert Ruiz	76	86 150	--	--

EXHIBITS:IDENTIFIEDRECEIVEDFor the Respondent:

GGGG	Document signed by Eddings	5	--
HHHH	Report by Eddings to supervisor	7	--
IIII	Handwritten document	37	--
JJJJ	Declaration by Krupp	58	--
KKKK	Declaration by Ruiz	84	--
LLLL	Transcript of interview with Ruiz	91	--

For the Petitioner:

32	Letter to counsel	24	--
33	Business cards	93	--

1 SAN DIEGO, CALIFORNIA FRIDAY, AUGUST 6, 2004, 1:00 P.M.

2 (Call to order of the Court.)

3 THE CLERK: Number 10 on calendar, case number
4 04CV0656, Cooper v. Brown for miscellaneous hearing.

5 THE COURT: Thank you. State your appearances for
6 the record.

7 MR. ALEXANDER: David Alexander on behalf of the
8 Petitioner. Good afternoon, your Honor.

9 THE COURT: Good afternoon.

10 MS. WILKENS: Good afternoon, your Honor. Holly
11 Wilkens, Deputy Attorney General, for Respondent.

12 THE COURT: Thank you.

13 We'll begin with the first witness.

14 MS. WILKENS: Your Honor, we have secured the
15 attendance of both Ms. Eddings and Mr. Krupp. I don't know
16 the Court's preference, since Mr. Alexander is the proponent
17 of their declaration. I am prepared to proceed either way
18 as the Court pleases.

19 THE COURT: Mr. Alexander, do you -- which do
20 you -- do you want to question first or second?

21 MR. ALEXANDER: I had understood that Ms. Wilkens
22 was going to question first, but --

23 THE COURT: You may. We'll do that.

24 MR. ALEXANDER: May I ask as we plan the afternoon
25 whether Mr. Ruiz is to be here or not?

1 THE COURT: Is he?

2 MS. WILKENS: Yes, your Honor, I did want to
3 mention that. We had scheduled Mr. Ruiz to testify third
4 today. Mr. Alexander has asked the Court to preclude his
5 testimony, so I've placed him on call. But if your Honor
6 wishes to hear from him, I will arrange to have him come
7 down.

8 THE COURT: How far away is he?

9 MS. WILKENS: 30 minutes.

10 THE COURT: Oh. I think that we would get to his
11 testimony, so he should be here today.

12 MS. WILKENS: Thank you, your Honor.

13 MR. ALEXANDER: Our move wasn't to preclude his
14 testimony. It was to have it next week or some other time,
15 frankly.

16 THE COURT: Well, we could begin today. I mean,
17 he's been known since January or February.

18 MS. WILKENS: February. Yes.

19 MR. ALEXANDER: That's for what wasn't known, and
20 I do want to -- we don't need to interrupt, hold these
21 people up. But I do want to know, because we only knew that
22 he would be called tomorrow -- today yesterday morning, and
23 for the first time was when I learned that today was the day
24 he would actually appear.

25 THE COURT: Well, we've got the Order that says --

1 so you should be ready on all matters.

2 MR. ALEXANDER: Well, all right.

3 THE COURT: And we've known of him since February.
4 So we'll go ahead with the witness.

5 MR. ALEXANDER: All right. I am aware of seeing
6 that, but let's do the witness.

7 MS. WILKENS: Okay, your Honor. We would call
8 Donnie Eddings to the stand.

9 THE CLERK: Would you please raise your hand?

10 DONNIE EDDINGS - RESPONDENT'S WITNESS - SWORN

11 THE CLERK: Please be seated.

12 THE WITNESS: Hi. How are you?

13 THE CLERK: Would you please state your full name
14 for the record and spell your first and last names, please?

15 THE WITNESS: Donnie Rose Eddings. Donnie is
16 spelled D-O-N-N-I-E. Eddings spelled E-D-D-I-N-G-S.

17 THE COURT: You may proceed.

18 MS. WILKENS: Thank you, your Honor.

19 DIRECT EXAMINATION

20 BY MS. WILKENS:

21 Q Ms. Eddings, I understand you're currently retired; is
22 that correct?

23 A Yes.

24 Q And in 1983, where were you employed?

25 A I was employed at the California Institution for Men at

1 Chino in the Central Reception Center.

2 Q Now, what was your position with the California
3 Institution for Men in 1983?

4 A I was assigned as correctional counsel in the Reception
5 Center.

6 Q And what duties in general did you perform as a
7 correctional counselor at the Center?

8 A I was one of 12 correctional counselors. We
9 interviewed each inmate that was assigned to prison in
10 Southern California, and it was our job to obtain all
11 information that was available, interview the inmate and
12 determine what level of custody was appropriate for that
13 inmate.

14 Q Now, Ms. Eddings, in front of you there's a black
15 notebook. And if you would be kind enough to open it up,
16 there is tabs. And if you could turn to the document under
17 tab four-G? There's four G's.

18 A Could you pass me my glasses?

19 Q Yes, ma'am.

20 A I'm sorry.

21 (Pause.)

22 Thank you.

23 (Pause.)

24 4-G?

25 Q Yes. It would be the first document in the notebook

1 under 4-G.

2 A (Witness searches for document.)

3 Q It's a one-page declaration. Do you see a one-page
4 declaration?

5 A Okay. Yes. Uh-huh.

6 Q Do you recognize Exhibit 4-G which is a one-page
7 declaration dated February 1, 2004?

8 A Yes.

9 Q And does it bear your signature?

10 A Yes.

11 Q And did you sign it on the date that's indicated, being
12 February 1, 2004?

13 A I don't remember.

14 Q You don't remember the day?

15 A No.

16 Q Okay. Do you remember if you wrote the day of the
17 month in when you signed it?

18 A I don't remember that either.

19 Q Okay. Now, did you write this declaration yourself?

20 A I didn't type this. I wrote it out in handwriting
21 because the person indicated that they had mislocated my
22 paper, and I was just trying to remember what was in the
23 paper that I had turned in.

24 Q Okay. So you wrote out what's in this typed version in
25 handwriting yourself; is that correct?

- 1 A Yes. Uh-huh.
- 2 Q And did you do that at the request of a particular
3 person?
- 4 A Yes.
- 5 Q And who would that be?
- 6 A It was an investigator that I thought was coming
7 because they had mislocated my paperwork. So I just gave
8 them the information.
- 9 Q Okay. And did the individual come to see you close in
10 time to when you signed this declaration?
- 11 A Yeah.
- 12 Q And did the individual say to you who they represented
13 or what organization they were with?
- 14 A Just said he was working on the Kevin Cooper case.
- 15 Q Did you have an understanding of whether the individual
16 was working for the Cooper defense team or for the
17 prosecution?
- 18 A No.
- 19 Q You had no sense one way or the other?
- 20 A No.
- 21 Q Okay. And they told you that they were unable to
22 locate paperwork; is that correct?
- 23 A Uh-huh.
- 24 Q And what did you understand that to mean?
- 25 A That someone had mislocated the paperwork I had turned

1 in to my supervisor at the prison about the case.

2 Q Okay. And that would be about the Cooper case?

3 A Yes.

4 Q Okay. And so they asked you to write down what you
5 could remember, correct?

6 A Yes. Uh-huh.

7 Q Okay. Now, if I could ask you to turn to the next page
8 which would be Exhibit quadruple H, there's a one-page
9 memorandum dated June 21, 1983. Do you recognize this, Ms.
10 Eddings?

11 A Yes.

12 Q And what is this, please?

13 A This is the report that I turned in to Kathleen
14 Anderson who was my direct supervisor at the time that I
15 talked to inmate Luparello.

16 Q Okay. And why did you speak to inmate Luparello, if
17 you can recall?

18 A He came in to talk to me regarding his, as far as I can
19 remember, situation with his classification or something
20 like that. And while he was in, he began to volunteer some
21 information that is contained here in the report.

22 Q And did you write this memorandum on the date that's
23 indicated? Was that your practice?

24 A It was my practice to usually turn the information over
25 to the supervisor immediately.

1 Q Okay. So the date of the memorandum is the date that
2 you've indicated that you spoke to inmate Luparello,
3 correct?

4 A Yes.

5 Q Okay. Now, do you recall discussing this with your
6 supervisor beyond preparing and providing her with the
7 memorandum?

8 A No.

9 Q Now, do you recall the information that Mr. Luparello
10 provided you? Do you have any recollection?

11 A Yes. Uh-huh.

12 Q What did he tell you, ma'am?

13 A To the best of my recollection -- I am 64 now, so I --
14 the memory is the first to go.

15 I was told that he was a former chiropractor from the
16 Santa Ana area and that he knew the Ryan family very well
17 and he knew that his chiropractic office had been
18 burglarized by a gang in the Santa Ana area. And he himself
19 had his office burglarized as a chiropractor and was now
20 serving time for trying to really defend himself against the
21 gang. And the serve -- I think he said he was charged with
22 aiding and abetting murder because of the attacks from the
23 gang members on his family. So he said that he knew that
24 this group called the F-troop had a blood covenant that if
25 you come against or arrest or hurt any of their gang

1 members, that they had to retaliate against whoever came
2 against the gang members. And that Ryan had testified
3 against some of the F-troop and they were serving prison
4 time at the time we talked, and that he knew that they were
5 the ones who went in to kill the family. The Ryan family.

6 MR. ALEXANDER: Your Honor, let me object and move
7 to strike to the extent this is offered for the truth of the
8 matters being asserted.

9 THE COURT: On hearsay grounds?

10 MR. ALEXANDER: On hearsay grounds.

11 THE COURT: That's sustained.

12 MR. ALEXANDER: The fact that it was said is a
13 different story.

14 BY MS. WILKENS:

15 Q Now, Ms. Eddings, did you have occasion to verify Mr.
16 Luparello's reason for being confined at CIM?

17 A No, I didn't.

18 Q So when he told you that he was in prison for aiding
19 and abetting a murder, you didn't independently verify that;
20 is that correct?

21 A No. I didn't really think it was relevant to what I
22 needed to report up the line.

23 Q And do you recall whether or not you spoke to inmate
24 Luparello in the context of a placement interview? Can you
25 recall that?

1 A No. See, after, if we interview people, we usually
2 don't see them again. But by being counselors in a
3 Reception Center, it was quite often that the inmates wanted
4 to talk with a counselor, so they could come in and ask for
5 any one of us. I think there was about 13, 12 or 13 at the
6 time. So, it was normal for them to come to the front desk
7 and ask to talk to a counselor.

8 Q Now, if you could turn back to your declaration which
9 was Exhibit quadruple G, I note that in paragraph 3 -- no,
10 I'm sorry, paragraph 2. I apologize. I notice in paragraph
11 2 of your declaration it states that you overheard inmates
12 discussing the Ryan murders.

13 A Uh-huh.

14 Q Would that have included Luparello?

15 A Gee, you know, that statement was -- sounds like I was
16 trying to remember how I happened to be talking to
17 Luparello. That was the best I could remember at the time,
18 that I had overheard him talking at first.

19 Q Okay. Now, sitting here today, do you independently
20 have any recollection of having overheard a group of inmates
21 discussing the Ryan murders?

22 A Right now it's kind of vague how we actually got into
23 conversation. I thought it was him coming in to talk to me
24 personally, but now that we're talking about it we could
25 have gotten into the conversation with me overhearing and

- 1 then him coming and telling me these details.
- 2 Q Okay. So are you clear one way or the other how you
3 came to be speaking with inmate Luparello?
- 4 A Now that it's come up, I can't remember.
- 5 Q Okay.
- 6 A But I just know I had the conversation.
- 7 Q Now, inviting your attention to paragraph 4, it
8 discusses a Hispanic gang in the Santa Ana region known as
9 A-troop.
- 10 A Uh-huh.
- 11 Q Was your recollection that this matter involved the A-
12 troop gang?
- 13 A When you gave -- sent me a copy of my original report
14 was when the -- in my memory I couldn't remember whether he
15 said the A-troop or the F-troop when I saw your copy of the
16 report that you sent me.
- 17 Q Okay. So --
- 18 A So it was the F-troop.
- 19 Q So in reviewing your memorandum that you wrote June 21,
20 1983, it's refreshed your recollection as to the name of the
21 gang?
- 22 A The F-troop.
- 23 Q Okay. And that would be the F-troop gang?
- 24 A Uh-huh.
- 25 Q Okay. Now, did Mr. Luparello when he was speaking to

1 you, did he indicate that the gang that he had problems
2 with, did he tell you that was the F-troop gang?

3 A F-troop. Uh-huh.

4 Q Okay. And Mr. Luparello told you that Doug Ryan had
5 testified against members of the F-troop gang; is that
6 correct?

7 A Yes.

8 Q Okay. And it was Mr Luparello's belief that the F-
9 troop gang was involved in the murders?

10 A Yes.

11 MR. ALEXANDER: Again, your Honor, I just want to
12 make clear that this is not being offered for the truth of
13 the matter but just that it -- what was told to Ms. Eddings.

14 THE COURT: Sustained.

15 BY MS. WILKENS:

16 Q Now, were there members of the F-troop gang housed at
17 CIM at that time?

18 A I don't know.

19 Q Did inmate Luparello request to be housed away from
20 members of the F Street -- F-troop gang?

21 A No, not that I know of.

22 Q And did you communicate with anyone other than Kathleen
23 Anderson the information that you had obtained?

24 A No, not at that time.

25 MS. WILKENS: Thank you, your Honor. I have no

1 further questions.

2 THE COURT: Cross?

3 MR. ALEXANDER: I'm sorry, Ms. Eddings. Would it
4 help if you had some water?

5 THE WITNESS: Yes.

6 MR. ALEXANDER: Now that I've offered, I don't
7 have any to offer.

8 THE WITNESS: Oh, here is some.

9 THE COURT: It's right there.

10 MR. ALEXANDER: Great. Thank you very much, your
11 Honor.

12 THE WITNESS: Thank you.

13 MR. ALEXANDER: May I proceed, your Honor?

14 THE COURT: You may.

15 MR. ALEXANDER: Thank you.

16 CROSS EXAMINATION

17 BY MR. ALEXANDER:

18 Q Ms. Eddings, we met very briefly. I introduced myself
19 out in the hall, and I represent Kevin Cooper in this
20 matter. And you understand that from what I mentioned to
21 you out in the hall.

22 Q Uh-huh.

23 Q Yes?

24 A Yes.

25 Q All right. Thank you.

1 Now, I wondered if -- just because we like to know the
2 people who are coming in to relate information to us, if you
3 could tell me a little bit about your experience in the
4 California -- working for the California prison system.

5 MS. WILKENS: Objection, your Honor. Relevance.

6 THE COURT: Sustained.

7 BY MR. ALEXANDER:

8 Q How long were you at the CIM? Approximately.

9 A Approximately -- started in about '63. That was about
10 '83. Probably about 10 -- 10 years.

11 Q All right. '63 to '83?

12 A Uh-huh.

13 Q So approximately 20 years?

14 A 20. Yeah. I'm sorry.

15 Q Okay. And do you recall what part of '83 it is that
16 you left?

17 A No, I can't remember. I was promoted to the field as a
18 parole agent. I don't know the exact date.

19 Q When did you stop working for the California prison
20 system?

21 A Actually, it was a few months after this incident that
22 I left the prison system and went to the parole department,
23 still working for the Department of Corrections.

24 Q And how long were you with the parole department?

25 A Until 1991.

1 Q Okay. And then did you retire at that point?

2 A Yes.

3 Q Okay. And without telling me exactly the exact
4 address, just what town -- in what town do you reside
5 currently?

6 A What town do I reside?

7 Q Yes.

8 A In Van Nuys.

9 Q Van Nuys. Okay. Now, if you would please turn to
10 what's been previously marked as Exhibit -- well, there are
11 four H's, so I guess the second --

12 A Uh-huh.

13 Q You know, second exhibit in. I want to make sure I
14 understand precisely what you are reporting here.

15 First of all, you mentioned in the course of your
16 testimony that you received a copy of this report from Ms.
17 Wilkens; is that correct?

18 A Yes.

19 Q All right. And was that recently?

20 A Yes, with the subpoena.

21 Q With the subpoena.

22 A Uh-huh.

23 Q All right. And when were you subpoenaed,
24 approximately?

25 A Last week.

1 Q All right. And did you then have a conversation with
2 Ms. Wilkens?

3 A You need the exact date?

4 Q That would be great.

5 A July 29, 2004.

6 Q All right. Now, either on July 29th -- well, sometime
7 either before July 29th or afterwards, shortly before the
8 29th or afterwards did you have a conversation with Ms.
9 Wilkens?

10 A I think she called to let me know that she was faxing
11 me a subpoena.

12 Q And did she also indicate she'd be faxing the report?

13 A Yes.

14 Q Prior to your receiving the report from Ms. Wilkens,
15 when is the last time you recall seeing this report?

16 A Prior to that?

17 Q Yes, prior to receiving it with the subpoena from Ms.
18 Wilkens.

19 A Last time I saw it was the date that I turned it in in
20 1983.

21 Q Okay.

22 A But prior -- that I might have saw that. When she sent
23 it me was the first time since that date.

24 Q All right. Now, this inmate Luparello with whom you
25 spoke told you that he had prior knowledge of the Ryans'

1 office being burglarized about one month prior to the
2 murders. That's what you write. Do you recall him telling
3 you that?

4 A That's what I put in the report. I don't remember.
5 Did I specify that in the report there?

6 Q Right. That's in the first three lines.

7 A Yeah. Okay.

8 Q And you have a --

9 A 21 years is a long time to remember dates.

10 Q Of course. Of course. And do you have a recollection
11 of him telling you that independent of this document?

12 A Of him telling me it was just before?

13 Q That he had prior knowledge of the Ryans' office being
14 burglarized.

15 A Oh, yeah. I remember that, because of the event.

16 Q Okay. And you remember him saying that to you?

17 A Yes.

18 Q All right. And was the source of his information --
19 when the statement was made, "A few days after the Chino
20 murders, it was reported on Eyewitness New Channel 7," is
21 that what you're -- is the reference in that sentence the
22 fact that Mr. Luparello told you that the break-in at the
23 Ryans' office had been reported on Eyewitness News Channel 7
24 a few days after the murders of the Ryan family members?

25 Do you understand my question?

1 A No, I don't.

2 Q All right. Fair enough.

3 What I'm asking you is, the statement that says, "A few
4 days after the Chino murders" -- it says "it was reported on
5 Eyewitness News Channel 7." Does the "it" refer to the fact
6 that there had been a burglary at the Ryans' office about a
7 month before the murders were committed?

8 A I don't understand it. Did they --

9 (Pause.)

10 Referring to the fact of the burglary having taken
11 place, I guess. It seems to refer to the sentence just
12 above that.

13 Q Very well. And did Mr. Luparello indicate to you that
14 that was the basis for his prior knowledge of the Ryans'
15 office being burglarized?

16 A I think that was what made him realize he needed to
17 come and turn in the information to the Department that he
18 knew of the burglary and the whole situation. I think that
19 was what may have prompted him. I don't know what really
20 prompted him, but he did mention that.

21 Q I guess what I'm trying to understand is -- we don't
22 have him here at this time to ask, but was it your
23 understanding based upon what he said that his knowledge of
24 the Ryans' office being burglarized was what he learned on
25 Eyewitness News Channel 7, that that was the source of it?

1 A No. It was -- seemed to me that he was talking to me
2 from his own personal knowledge of the situation prior to
3 coming to prison and prior to the murders.

4 Q Okay. So that he had some independent basis for his
5 knowledge apart from having seen it on Eyewitness News, but
6 it was also reported on Eyewitness News?

7 A Yes.

8 Q Would that be a fair statement?

9 A Yes. Uh-huh.

10 Q All right. Thank you.

11 Now, then he said -- told you that, as you reported, he
12 had contact with chiropractors in Orange County who told him
13 that the three Mexicans who were burglarizing the office
14 were caught in the act because a jogger saw them and called
15 the police. Do you see that?

16 A Yes.

17 Q So his source of information about the fact that there
18 were three Mexicans was information brought out -- or
19 brought to his attention by other chiropractors?

20 A Yes.

21 Q Okay. He didn't have any personal knowledge; is that
22 correct?

23 A The person -- I guess he considered that the personal
24 knowledge because it was similar to what he was personally
25 living through with his own family.

- 1 Q Okay. But when you say the personal knowledge, the
2 personal knowledge is the knowledge he got from some
3 chiropractors not identified here in Orange County, correct?
- 4 A Yes, and his -- the next situation --
- 5 Q Yes.
- 6 A -- I talked about him and his own experience.
- 7 Q He didn't tell you that a Mexican gang committed the
8 burglaries, did he?
- 9 A (No audible response.)
- 10 Q He just told you that somebody else told him that three
11 Mexicans had burglarized the office, correct?
- 12 A Yes. Uh-huh.
- 13 Q Is that correct?
- 14 A Yes.
- 15 Q All right. So he didn't have personal knowledge other
16 than what he learned from these other --
- 17 A This personal knowledge.
- 18 Q -- other chiropractors.
- 19 A This personal knowledge was the way the gang operates
20 because of having a similar experience.
- 21 Q See, and that's the second paragraph --
- 22 A Yes.
- 23 Q -- which I'm going to get to in a minute. But I just
24 want to complete the first paragraph.
- 25 Regard to the first paragraph, his source of knowledge

1 as you understand it is what other chiropractors in Orange
2 County had told him sometime before the Ryan murders and
3 after the burglary occurred, correct?

4 A Yes.

5 Q All right. Thank you.

6 And he didn't tell you that the Mexican gang had killed
7 the Ryans, did he?

8 A I think he may have said that right out, but that was
9 indicated in the way he was sharing about his own experience
10 and about what he knew of the situation.

11 Q All right, but let me be specific. What he then goes
12 on to tell you about is another experience that he was aware
13 of when he was not in prison and was in Santa Ana as a
14 chiropractor, correct?

15 A Yes.

16 Q All right. And that's what related in the second
17 paragraph?

18 A Yes.

19 Q All right. But he did not tell you at the time that
20 the Mexican gang committed the Ryan murders?

21 A No.

22 Q All right. What I said is correct?

23 A (No audible response.)

24 Q When you said no, what I said was correct --

25 A Yes.

- 1 Q -- that he did not tell you?
- 2 A Uh-huh.
- 3 Q All right. Now, if you would direct your attention now
- 4 to four G's. The first one, GGGG.
- 5 (Pause.)
- 6 Do you have that in front of you, Ms. Eddings?
- 7 A Yes.
- 8 Q Thank you.
- 9 Now, with -- directing your attention to paragraph 4 of
- 10 your declaration -- all right? -- it's now the F-troop; is
- 11 that the correct -
- 12 A F-troop. Yes.
- 13 Q All right.
- 14 A Sorry about that.
- 15 Q That's all right.
- 16 Now, is this information that you know of your own
- 17 knowledge that the F-troop was a large Hispanic gang with
- 18 strong roots in the Santa Ana area?
- 19 A I just know it from my conversation with Luparello.
- 20 Q Okay. So that's the information he gave you?
- 21 A Yes.
- 22 Q All right. And he told you in the next sentence Doug
- 23 Ryan was thought to have either press charges against the
- 24 gang or testified against its members?
- 25 A Yes.

1 Q All right. And the F-troop, I guess we can say, had a
2 code that if someone testifies against them they seek
3 revenge. That's something Mr. Luparello told you?

4 A Yes.

5 Q All right. Now, the Ryan family was murdered in
6 retaliation for Doug Ryan's cooperation with police. Mr.
7 Luparello told you that also?

8 A Yes. Me trying to remember and tie it all together 21
9 years later.

10 Q Sure. That's why I'm asking you.

11 A Yeah, because I can't say he told me that in those
12 words. That was my trying to remember what was involved in
13 this situation.

14 Q Uh-huh.

15 A 21 years later.

16 Q So the last sentence isn't something he told you but
17 something you concluded?

18 A Concluded in trying to remember the situation.

19 Q All right. Now, do you also recall, Ms. Eddings,
20 sending a letter to the Governor of the State of California
21 earlier this year?

22 A I think it was an e-mail.

23 Q E-mail? All right.

24 (Pause.)

25 MR. ALEXANDER: If I'm not mistaken, your Honor,

1 we're on Exhibit 32, Plaintiff's Exhibit 32.

2 Is that correct, Madam Clerk?

3 THE CLERK: Number thirty -- it would be 31.

4 MR. ALEXANDER: I think we marked Exhibit 31, the
5 transcript -- for identification purposes, the transcript of
6 Mr. Stark's interview.

7 THE COURT: You can use 32.

8 MR. ALEXANDER: All right. Thank you, your Honor.

9 (Pause.)

10 MR. ALEXANDER: For the record, Exhibit 32 is a
11 three-page document that is a letter to various counsel in
12 the matter from David Verhay (phonetic), Deputy Legal
13 Affairs Secretary to the Governor, and attached to it is a
14 letter, February 9, 2004, addressed to the Governor in care
15 of Mr. Verhay from Donnie Eddings, D.MIN.

16 BY MR. ALEXANDER:

17 Q If you'd take a moment and look through that, Ms.
18 Eddings, I'd very much appreciate it.

19 A (Witness complies.)

20 Q Just let me know when you've familiarized yourself with
21 it, Ms. Eddings.

22 A Okay.

23 (Witness continues review of document.)

24 Okay.

25 Q All right. Thank you very much.

1 Before I focus on that, with regard to your memorandum
2 that you wrote in June of 1983 to Ms. Anderson -- that's
3 Exhibit four H's --

4 A Uh-huh.

5 Q -- that you looked at. Did you ever have any
6 conversations with Ms. Anderson about this information?

7 A I can't remember that I did.

8 Q Okay.

9 A I don't remember talking to her.

10 Q And do you know whether or not Ms. Anderson passed that
11 information on to others?

12 A It was my understanding that she passed it on to the
13 superintendent. But to say that she told me she did, I
14 don't remember that. But it was my understanding that she
15 passed it up the line, because that's procedure. Anything
16 that goes from me to her would automatically go from her to
17 the next line up.

18 Q Now, do you have any information whether or not the
19 information that you set forth in this memorandum was then
20 delivered to the Sheriff's Department of San Bernardino?

21 A The one that I sent to the superintendent?

22 Q Whether or not --

23 A I mean to the --

24 Q -- that information, whether that memo specifically or
25 the information contained within it was sent to the --

1 provided to the Sheriff's Department.

2 A No. I just automatically felt like that would be what
3 would happen to the information.

4 Q Okay.

5 A Because at that time everybody was trying to find out
6 every bit of information they could to find out who did the
7 murders.

8 Q Uh-huh.

9 A So it just seemed to me the normal chain of events of
10 the chain of the information would be from me to the -- my
11 supervisor, from her to the superintendent, and the
12 superintendent over to the ones investigating the case.

13 Q Right. Now, do you recall a gentleman by the name of
14 Zeke Hernandez? Does that name ring a bell?

15 A No.

16 Q All right. A Ms. Cordua or Cordua. C-O-R-D-U-A, I
17 believe.

18 A No.

19 Q And how about a John Laudaman (phonetic), does that
20 name ring -- Laudaman. Does that name ring a bell?

21 A No.

22 Q All right. If I indicate that they were involved in
23 part of the security group or team at Chino, does that help
24 refresh your recollection?

25 A No.

1 Q Uh-huh. Now, was there an instruction or direction
2 given either from your supervisor or from the superintendent
3 at Chino to cooperate fully with the Sheriff's Office in
4 connection with the Ryan murders? Do you recall that?

5 A Well, I was interviewed quite a bit by the District
6 Attorney's Office because I was the counselor who actually
7 classified Kevin Cooper based on the information I had as a
8 minimum custody, minimum security person.

9 Q Yes.

10 A And later on, the information came that he should have
11 been placed in maximum security. We didn't have that
12 warrant at the time.

13 Q Now, during the course of the interviews by the
14 District Attorney's Office, did you also relate the
15 information that's set forth in your June 21st memo?

16 A Would you say that again?

17 Q Yes. You mentioned that since you had done the initial
18 interview or whatever with Mr. Cooper, that later on you
19 spoke with some District Attorneys about that fact or about
20 that interview. And I want to know whether in the course of
21 those discussions did you indicate to the attorneys,
22 District Attorneys, the information that's set forth in the
23 June 21 memo or your declaration.

24 A I don't really remember if that information I had
25 gotten from the inmate was prior to being interviewed by the

1 District Attorney or after that. It was all -- a lot of
2 things going on at that time.

3 Q Okay. Do you remember the name of the District
4 Attorney who interviewed you?

5 A No.

6 Q Does a Mr. Kochis ring a bell?

7 A Honestly, 21 years is a long time --

8 Q Sure.

9 A -- to remember a District Attorney's name that you
10 talked to twice, you know. I don't remember his name.

11 Q How about Mr. Kottmeier, does that name ring a bell?

12 A Huh-uh.

13 Q Okay. Now, the 6-21 memo was about 16 or 17 days, more
14 than a couple weeks after the crimes at the Ryan residence.
15 Does that help you that your interview with the District
16 Attorney was after that date?

17 A It seems to me that the District Attorney's Office
18 started interviewing us the day after the murders. So it
19 could be that I talked to them prior to talking to Luparello
20 or, if I mentioned something to them about his comments to
21 me, then it could have been -- it may have been afterwards,
22 because if I had that information at the time I talked to
23 the District Attorney I'm sure I would have told him that
24 information. I would have felt like that was relevant to
25 the situation.

1 Q How close in time are the two interviews with the
2 District Attorney Office -- District Attorney representative
3 that you mentioned?

4 A I just know right away he started having meetings
5 and --

6 Q Were the meetings close in time -- in other words,
7 close together within a few days or maybe a week or so? Do
8 you recall?

9 A It lasted for months. You know, I know it started
10 right after. But if I mentioned, too -- if it was after I
11 talked to this inmate, I'm sure I would have mentioned
12 something to the District Attorney about that.

13 Q All right. But the time between the two meetings was
14 you say months, but the first one started pretty soon after
15 the murders?

16 A Yes. Uh-huh.

17 Q Okay. But the next one would have then been sometime
18 out into the future? In the future, several months out?

19 A No. The meetings went on for days. It was a big --
20 you know, it was a horrible thing that was going on and
21 everybody was trying to find out every bit of information
22 they could to try to turn it over so the situation could be
23 solved.

24 Q All I'm trying to be clear on and then I'll move on is,
25 that once you had the first meeting, the second meeting

1 wasn't until several months later with the District
2 Attorney?

3 A To the best of my recollection.

4 Q That's all we can ask. Thank you.

5 A I'm sorry.

6 Q No, you don't have --

7 A 21 years is a long time to remember these kind of
8 details.

9 Q I only remember one thing from 1983, but it's not
10 relevant.

11 All right. Now, if you would be good enough to direct
12 your attention to the -- well, let me withdraw that.

13 Have you ever been interviewed by any representative of
14 the Sheriff's Department of San Bernardino County in
15 connection with the information on your memo or in your
16 declaration?

17 A I don't think so, not that I remember.

18 Q All right. Looking now at Exhibit 32 which is the
19 letter or the statement that you provided, the last page of
20 it. First of all, do you recall sending this to the
21 Governor in care of Mr. Verhay?

22 A Ah, yes.

23 Q Okay.

24 A This is in the heat of the execution and people
25 coming -- talking on T.V. saying testimony of the child that

1 was the one eyewitness, and that was my first time really
2 hearing that the testimony that was denied of the one
3 eyewitness saying that this guy didn't do it, that it was
4 some gang members that did it. And I'm saying, gosh, if all
5 this true, then what the man said in the prison in '83
6 verifies that. And somehow there's getting to be an
7 execution here and all the facts don't seem to be, you know,
8 in the situation.

9 Q Uh-huh.

10 A So out of desperation of seeing what seemingly really
11 like all the facts weren't entered in which would have
12 supported the child's testimony which was denied as
13 evidence, it is frustrating to me. So that's why I pulled
14 out my computer, wrote the letter, said somebody needs to
15 look at all of these facts. Something's missing here.

16 Q Now, what did you use or how did you go about preparing
17 this statement to the Governor?

18 THE COURT: I think that's a little vague. Let's
19 get to the point.

20 MR. ALEXANDER: Sure.

21 BY MR. ALEXANDER:

22 Q Well, on February 1st, you sent -- you signed a
23 declaration which we've already looked at. Now, this is
24 eight days later, the letter you sent on to the Governor.

25 A February 1st?

1 Q February 1st is four G's. Okay? That's February 1st,
2 that declaration that you provided. And then this is, you
3 know, about eight days later.

4 A Wow. I don't know. Maybe this "1st" is written in
5 there, because I had already talked to this person here I
6 think before I wrote the letter. So I don't know how this
7 "1st" got in there. That's not my writing.

8 Q Which is not your writing, ma'am?

9 A That "1" -- 1-S-T. I don't think that's my writing.

10 Q But that is your signature?

11 A That is my signature.

12 Q Okay. Well, in any event, what does the D period MIN
13 stand for -- period.

14 A Doctor of Ministry.

15 Q Doctor of Ministry. Okay. Let me ask you more
16 directly. Did you have Exhibit four G -- four G's with you
17 at the time you prepared the letter to the Governor?

18 A No.

19 Q All right. Now, directing your attention, Ms. Eddings,
20 to the third paragraph down. It says in the last line, "He
21 told me." Is that this -- the inmate that you're referring
22 to, correct?

23 A Let me read it. I'm sorry. Just a moment.

24 (Pause.)

25 I must say, 20 years later trying to remember the gist

1 of the conversation, that's what basically I was reporting
2 there.

3 Q Okay. So you can't recall whether or not the inmate
4 told you that the three Mexican people are the ones who went
5 to the Ryan home and killed Mr. Ryan and his family or
6 whether that was just something you concluded based on what
7 he told you -- based on other things he told you; is that
8 correct?

9 A Based on the things he was saying to me, I feel like
10 that was what he was indicating.

11 Q Okay. Now, the next sentence you say -- next
12 paragraph -- you sent the report to Ms. Carroll. Do you
13 mean, in fact, Ms. Anderson?

14 A Yes. Uh-huh.

15 Q All right. You didn't actually turn it over to Ms
16 Carroll yourself?

17 A No. When I got this copy from Holly is when I realized
18 that I'd sent it first to Kathleen Anderson and assumed that
19 she would send it up to Ms. Carroll.

20 Q Do you know where Ms. Anderson is today these days?

21 A No.

22 Q Okay. Now, was it Ms. Anderson who said she would turn
23 the information over to the police and not Ms. Carroll?

24 A As far as I can remember, she just sends everything
25 right up. It's like anything, any other report. It would

1 just go up the line.

2 Q Okay. But the statement says "she said that you would
3 turn it over to the police." Is that what Ms. Anderson told
4 you when you turned the report over to her?

5 A Evidently.

6 (Pause.)

7 Oh, I'm sorry. I said it looks that way.

8 Q Okay. I'm sorry. I didn't hear you.

9 A This was an effort to try to impress the Governor that
10 there seemed to be some facts that had not added into this
11 equation.

12 Q Okay.

13 A I was a little bit bothered by it. Why can't we get
14 the picture here? Somebody get the picture. Something's
15 not right.

16 Q All right. Then I want to ask you about the last
17 sentence in that paragraph. "His testimony would also
18 confirm that an eyewitness saw two men running from the
19 house with blood all over their clothes." Whose testimony
20 are you referring to there?

21 A That was something I remembered, that Luparello had
22 mentioned that I never did even remember at the time.

23 Q You didn't remember in '83?

24 A Uh-huh.

25 Q And you didn't have it in your declaration, correct?

1 A That was something that I remember. I said, "Oh, my
2 gosh, I never even thought of that," but that is something
3 that came to my mind that people had had actually seen,
4 people running from the house which hit me that they had
5 never been pointed out, seemed like in all the news reports
6 I was getting from the trial.

7 Q Mr. Luparello said he actually had seen an eyewitness?

8 A Huh?

9 Q Or confirmed that --

10 A Confirmed.

11 Q Oh, I see. His testimony would also confirm that an
12 eyewitness saw two men running from the house. Mr.

13 Luparello didn't tell you who the eyewitness was?

14 A No.

15 Q All right. Ms. Eddings, just very quickly and finally,
16 have you ever talked to Mr. Krupp about the information you
17 learned?

18 A Mr. Krupp?

19 Q Yes. The gentleman sitting in the courtroom here in
20 the dark blue shirt.

21 A Today when I ran into him I said, "Oh, here you are
22 again. I haven't seen you in how many years? Since
23 probably about 1984." So today we -- and I said, "I didn't
24 know you had any information about this," and he didn't know
25 -- I guess he knew that I did because I took the situation

1 up to the -- Kathleen Anderson. So he probably knew that.

2 Q But my question specifically was, do you recall
3 speaking with Mr. Krupp about the information that's in your
4 memo or your declaration or even the statement to the
5 Governor? Did you ever discuss that with him back in the
6 '83-'84 time period?

7 A In '83-'84, everybody was talking to everybody about it
8 because it was the thing of -- the conversation of the day
9 because it was a terrible thing that happened. We all, all
10 the staff counselors, everybody was trying to find out what
11 information we could give to help out.

12 Q Did you tell Mr. -- did you have any information that
13 you related to Mr. -- withdraw that.

14 Did you discuss with Mr. Krupp information that the
15 Ryan murders was a drug bust gone wrong?

16 A No.

17 Q Have you ever heard that before today, I just mentioned
18 it?

19 A I just saw that in something -- oh, there was some
20 notes sent to me that I think Ms. --

21 Q Wilkens?

22 A -- Wilkens thought were my notes, and on there it says
23 it was a drug bust gone bad, I think, on there. Somewhere I
24 saw that today. That's the first I heard of that.

25 Q All right. And with reference to those notes, are the

1 notes what are marked as four I's, the letter capital I, in
2 your book there?

3 A Yes. She sent this to me. She thought those were my
4 notes.

5 Q But they're not?

6 A But they're not my notes.

7 Q Do you have any idea whose notes they are?

8 A They seem to be -- have been written by someone that's
9 left-handed.

10 Q Huh.

11 A I don't know who they could have been written by, but
12 it is interesting that some of the information that they
13 obtained was similar to the information that I had reported
14 on.

15 Q Okay. So in any event, these are not your notes?

16 A No.

17 Q Okay. All right. Then finally, Ms. Eddings, do you
18 recall a Detective Arthur, ever having spoken to a Detective
19 Arthur about the Cooper matter?

20 A I don't remember that.

21 Q Detective Phillips?

22 A I don't remember that either.

23 Q Detective or Deputy Danna?

24 A No. I probably talked to them, because I was being
25 interviewed by a lot of people because of trying to get to

1 the bottom of the whole situation. I did get interviewed by
2 a lot of people.

3 Q That's what I'm trying to pin down. You told me about
4 two meetings with a District Attorney. Was it the same
5 person both times, same District Attorney, do you recall?

6 A I don't remember. I just know there was a lot of
7 people that I had to sit down and try to relate to them what
8 happened when I had contact -- excuse me -- with Kevin
9 Cooper.

10 Q Okay. And were you also -- who were the -- you said a
11 number of people you met with or were interviewed by. Apart
12 from District Attorneys, who else were you interviewed by,
13 if you recall?

14 A It could have been some of the detectives you just
15 mentioned.

16 Q But they were at least with law enforcement?

17 A Yeah. Uh-huh.

18 Q And were those close in time to the events or was it a
19 number of years after?

20 A Close in time to the event.

21 Q Okay.

22 A This is during the event. It seemed like there was a
23 lot of people I had to sit down and try to relate everything
24 that happened when the case was in my office.

25 Q All right. And if you are aware, assuming you were

1 aware of the information that you related in -- or that you
2 had in your report on June 21st of 1983, do you recall that
3 that information would have been related by you to the
4 members of law enforcement?

5 MS. WILKENS: Objection. Speculation.

6 THE COURT: Speculation. Leading. Sustained.

7 BY MR. ALEXANDER:

8 Q Do you recall telling any persons involved in law
9 enforcement the information set forth in your memo in June
10 of 1983? In other words, the information that's in that
11 memo.

12 A I don't recall telling them, but if I had talked to
13 them I probably would have told them.

14 MR. ALEXANDER: Okay. Thank you very much. I
15 have no further questions.

16 THE COURT: Redirect?

17 MS. WILKENS: Thank you, your Honor.

18 REDIRECT EXAMINATION

19 BY MS. WILKENS:

20 Q Now, Ms. Eddings, is it correct that you were involved
21 in classifying Mr. Cooper in terms of where he should be
22 housed in the prison system?

23 A Yes.

24 Q Okay. And you recommended that he was suitable for
25 housing in a minimum security facility; is that correct?

1 A Yes.

2 Q And quite a few people wanted to talk to you about
3 that; is that correct?

4 A They did talk to me about it.

5 Q Okay. And were you spoken to by more than one person
6 about the classification of Mr. Cooper?

7 A Yes, because at the time I interviewed him, his file
8 said that he had just done one burglary. And at the time he
9 escaped from the institution, there was a warrant in his
10 file that had come in after the classification that was just
11 put in the file and not reviewed by the administration.
12 Didn't see it.

13 Q And with respect to that information not being in his
14 file, there was an investigation regarding that; is that
15 correct?

16 A Yes. Uh-huh.

17 Q And you were questioned in connection with that
18 investigation?

19 A Yes.

20 Q And was there an investigation by the California
21 Attorney General's Office regarding the classification of
22 Mr. Cooper?

23 A I think that was who was doing the investigation,
24 trying to determine how he got into minimum custody.

25 Q All right. And sitting here today you have no specific

1 recollection of having spoken to any law enforcement
2 representative whatsoever about the information from Mr.
3 Luparello; is that correct?

4 A I have no recollection of that. But like I say, if I
5 did talk with someone after the information was given me,
6 chances are I would bring that up. I didn't ever --

7 Q We're not -- no, we're not interested in what you think
8 you might have done if something happened. You understand
9 that the Court's trying to determine what you did with this
10 information. So sitting here today, the only thing that you
11 can confidently state is that you wrote a memorandum and you
12 provided it to the person to whom it was addressed; is that
13 correct?

14 MR. ALEXANDER: Objection, your Honor. It's
15 argumentative and I think it misstates the witness's prior
16 testimony.

17 THE COURT: On argumentative, overruled.

18 THE WITNESS: I'm saying that I did submit the
19 information to my supervisor. Years later when it appeared
20 that the information had been misplaced, I tried to
21 recollect the information and give the information to the
22 investigator that I thought was working on the team to try
23 to determine what really happened in the situation. And
24 basically, anyone I talked to about it was all in an effort
25 to try to find out what really happened in the situation.

1 BY MS. WILKENS:

2 Q Now, when you spoke to the individuals to whom you gave
3 a declaration, it was your understanding that their role was
4 to find out what really happened; is that correct?

5 A Yes.

6 Q All right. So having spoken to that person and having
7 provided them with your declaration which contained the
8 information from Mr. Luparello, why did you feel compelled
9 to subsequently contact the Governor's office yourself in an
10 effort to bring that information to the Governor's
11 attention?

12 A Because of the fact that the news on television later
13 on that day or the next day, there was going to be an
14 execution. And so I just wanted to make sure that the
15 Governor knew that there seemed to be some information that
16 has not been really looked at by the authorities.

17 Q Now, when you provided a declaration to the individual
18 that was working to make sure the truth was known, what was
19 your understanding of what they intended to do with that
20 declaration?

21 MR. ALEXANDER: Objection. Lack of foundation.

22 THE COURT: If you know.

23 THE WITNESS: What did you say?

24 BY MS. WILKENS:

25 Q Did you ask what your declaration was going to be used

1 for when you signed it and provided it to the person that
2 requested it?

3 A Only thing I thought was the thing that I had turned in
4 was misplaced and never used, so I just tried to remember
5 the information so that it could be applied to the
6 situation.

7 Q Now, what was the situation? What was your
8 understanding?

9 A The situation was that the information of the young
10 eyewitness had been thrown out of the court. The
11 information regarding the -- what I had turned in that had
12 been -- I felt was -- later I heard the child's testimony
13 which went along with the information that had been turned
14 in on my report. And things that were coming out on the
15 news that seemed to -- had not been included in the case.
16 And it just looked to me like maybe we needed to take
17 another look at all these facts before any execution took
18 place. That's why I wrote the Governor.

19 Q All right. I'm asking you if when you provided your
20 declaration, were you aware that an execution was scheduled?

21 A Yeah.

22 Q All right. So you were already aware that Mr. Cooper's
23 execution had been scheduled when you gave the declaration,
24 correct?

25 A Yeah. Uh-huh.

1 Q And when you provided that declaration, did you think
2 the people you gave it to were going to do something with it
3 that was going to help with the execution being unscheduled?

4 A Help to bring more information on the case. I mean,
5 this wasn't the only thing. It was all kind of things
6 coming on the news that information had come up.

7 Q Now -- so any information that you had separate from
8 what you obtained from Mr. Luparello you had gotten from the
9 media; is that correct?

10 A Yeah. Other things were coming on the news that would
11 indicate that, you know, we need to take another look at the
12 situation.

13 Q Now, the person that came and requested a declaration
14 from you, did they provide you with any information about
15 the Cooper case?

16 A No.

17 Q So they never mentioned to you about whether or not
18 there was a witness's testimony who had been thrown out of
19 court?

20 A No.

21 Q Okay. So all of this information that's in your letter
22 to the Governor would have been based on your understanding
23 from watching news reports?

24 A And from my, you know, personal contact with that --
25 with Luparello.

1 Q Now, you don't recognize the handwriting at all in
2 four-I, the handwritten notes, correct?

3 A No. It's not my writing.

4 Q All right. And in your letter to the Governor I notice
5 that you don't provide the name of the individual who
6 provided you information about the Ryans' business being
7 burglarized. Is there any reason why you didn't include Mr.
8 Luparello's name in your letter to the Governor?

9 A I can honest -- up until you sent me the notes, I had
10 forgotten his name. I just remember he was an Italian man.

11 Q Could you turn to your declaration?

12 A (Witness complies.)

13 Q Did it include Mr. Luparello's name?

14 A No.

15 Q Okay. So you couldn't recall his name?

16 A Uh-huh.

17 Q Could you recall whether or not he was a chiropractor?

18 A Yes. Uh-huh.

19 Q All right. So you knew that from memory.

20 A Uh-huh. When I saw your papers you had sent me, I had
21 forgotten what his last name was.

22 Q Okay. And when you say that you wrote up the report
23 and turned it over to Mitch Carroll, you have no
24 recollection of having done that; is that correct?

25 A I just remember that that was where it was headed. I

1 couldn't remember -- matter of fact, I forgot Kathleen
2 Anderson was even in the equation until I got your report
3 and read it.

4 Q Now, it says in your letter to the Governor that you
5 were speaking to an Appellate investigator that called you
6 on Sunday and that you learned that your report would have
7 confirmed the testimony of the little boy who testified in
8 court that Kevin Cooper did not kill his parents. It was
9 some Mexican guys. Does that refresh your recollection as
10 to whether or not the man that requested your declaration
11 talked to you about the Cooper case?

12 A Let me read this, please.

13 (Witness reviews document.)

14 What was your question now that I've read what we're
15 talking about?

16 Q It seems to suggest that you spoke to an Appellate
17 investigator, and in speaking to that investigator you
18 learned that the testimony of a little boy in the case of
19 Kevin Cooper, that his -- that Cooper did not kill his
20 parents would his parents, would somehow be confirmed by the
21 information that you have. That would suggest that this
22 individual talked to you about that testimony. Is that
23 inaccurate?

24 A No. The thing I learned about the little boy from the
25 news about the court case, but I think in talking with this

1 guy encouraged me, saying he didn't have all the information
2 -- he needed the information. He didn't ever have a copy of
3 it -- that if I concluded that had he had the information he
4 would have -- the courts may have accepted the little boy's
5 testimony as a good testimony. They were saying he was too
6 young or something to really know what happened. I
7 concluded, my goodness, if this little boy is saying the
8 same thing this man said, then that may help the Court to
9 understand that the little boy might have been telling
10 exactly what did happen.

11 Q Now, the statement about confirming an eyewitness who
12 saw two men running from the house with blood all over their
13 clothes, is this information that you obtained from watching
14 television?

15 A I don't understand. If the two foregoing things were
16 true, the thing -- the boy's testimony and Luparello's
17 testimony, then that would also coordinate with the thing on
18 the news that I had seen, wherever I got that information,
19 that all three of those things would seem to be indication
20 that these three things are true.

21 Q What I'm asking you is whether or not Mr. Luparello was
22 a source of any information about blood on clothing.

23 A No, I'm not sure exactly how I heard that. You know,
24 with the news going on, the court case is going on, and you
25 always hear all these different things. But I didn't put --

1 I don't think I have anything in my original report from
2 Luparello that said anything about blood on clothing. I
3 don't think I have anything in there about that in the
4 report, the original report.

5 Q So you have no recollection of receiving that
6 information from Luparello?

7 A No.

8 Q And your reference to this in your letter to the
9 Governor you believe is based on media reports about this
10 information?

11 A A combination of all the --

12 MS. WILKENS: Thank you, your Honor. I have no
13 further questions.

14 THE COURT: Anything else?

15 MR. ALEXANDER: Nothing else, your Honor. Thank
16 you.

17 THE COURT: All right. Thank you. You may step
18 down.

19 MR. ALEXANDER: Thank you, Ms. Eddings.

20 THE WITNESS: Thank you.

21 THE COURT: You're excused. Leave the things
22 there.

23 THE WITNESS: Okay.

24 (Witness excused.)

25 MS. WILKENS: Your Honor, while I'm thinking about

1 it, since we're on the topic, I was going to request leave
2 of the Court to call Paul Ingel to testify. As your Honor
3 is aware, we've already lodged reports with the Court on the
4 Ryan Chiropractic burglary and the three black males that
5 were arrested for that crime. We've demonstrated in the
6 lodgment that this information was made available at the
7 time of trial. We also have reason to believe it was known
8 for several years before February, and we believe that Mr.
9 Ingel will be able to confirm to the Court how many years
10 post-deferment counsel was aware of the information
11 regarding this.

12 THE COURT: You can do that, but not today,
13 because the defense would have to be given some --

14 MS. WILKENS: No. We've not made arrangements. I
15 just wanted permission, because it was not included in your
16 scheduling order.

17 THE COURT: You may.

18 MS. WILKENS: Thank you.

19 (Pause.)

20 MS. WILKENS: Your Honor, our next witness would
21 be Richard Krupp. And I would indicate for the record that
22 as a courtesy to the Court we, of course, are eliciting
23 examination on direct testimony. Mr. Alexander is the
24 proponent of both Ms. Eddings and Mr. Krupp, although it
25 might not be apparent from his cross examination, and I

1 would stipulate that we are not offering any hearsay
2 information elicited from Mr. Krupp other than for the
3 purpose of establishing that it was said, not for the truth
4 of the matter asserted therein.

5 THE COURT: Accepted?

6 MR. ALEXANDER: I believe that's correct, your
7 Honor.

8 THE COURT: Thank you.

9 MR. ALEXANDER: Your Honor, before we start, I
10 want to confirm Mr. Ruiz has been called and is on his way?

11 MS. WILKENS: Yes.

12 MR. ALEXANDER: And if I might -- this is not to
13 offend the Court. This is a colleague, Greg Evans. Mr.
14 Evans is with the Orrick firm and was the person --

15 THE COURT: He'll be doing Ruiz?

16 MR. ALEXANDER: He's going to, but I want to be
17 careful about this. That's the extent of his involvement in
18 our matter. And when we learned about this yesterday
19 morning, we scampered around to see if Greg could rearrange
20 his schedule, and he's done that.

21 THE COURT: All right.

22 MR. ALEXANDER: But I do want to address how we're
23 going to proceed in the future with witnesses.

24 THE COURT: You've got the list of witnesses.

25 MR. ALEXANDER: Well, I know, but that's true in

1 any trial, your Honor.

2 THE COURT: Let's go ahead.

3 MR. ALEXANDER: Very well.

4 THE CLERK: Raise your right hand.

5 RICHARD CHARLES KRUPP - RESPONDENT'S WITNESS - SWORN

6 THE CLERK: Please be seated.

7 Please state your full name for the record and
8 spell your first and last name, please.

9 THE WITNESS: Richard Charles Krupp, R-I-C-H-A-R-D
10 K-R-U-P-P.

11 THE COURT: Go ahead.

12 MS. WILKENS: Thank you, your Honor.

13 DIRECT EXAMINATION

14 BY MS. WILKENS:

15 Q Mr. Krupp, where are you currently employed?

16 A I still work at the Department of Corrections. I'm in
17 the Office of Substance Abuse Programs in Sacramento.

18 Q And how long have you been employed with the California
19 Department of Corrections?

20 A A little over 32 years.

21 Q And in 1984, where were you employed?

22 A At the California Institution for Men, Reception Center
23 Central.

24 Q And what was your position in 1984 at CIM?

25 A Correctional Counselor I.

1 Q And in general terms, what were your duties as a
2 Correctional Counselor I?

3 A Working in the Reception Center, interviewed all the
4 inmates from Southern California that were committed to
5 prison to determine which prison they would go to from there
6 to serve their time.

7 Q And in 1984, did you conduct an intake interview with
8 an inmate who mentioned the Ryan murders to you?

9 A Yes.

10 Q And do you know the name of the inmate that you spoke
11 to?

12 A No, I don't.

13 Q And what did the inmate relate to you about the Ryan
14 murders?

15 A He had indicated to me that while he was in County
16 Jail, in San Bernardino County Jail, that there were some
17 Mexicans he said that actually claimed to have committed the
18 murders. There were three Mexicans he said, but he didn't
19 have any names. And he was concerned for his safety, and
20 just passed that information on to me during the
21 classification interview.

22 Q Now, were you able to do anything with respect to his
23 housing based on the information that he gave you?

24 A No. He didn't have any names, and the people were
25 still in County Jail. So, he was passing the information on

1 to me, but it didn't determine where we sent him to do his
2 time.

3 Q And is that because you had insufficient information
4 about who the three Hispanic males were?

5 A Well, that plus the people were still in County Jail,
6 so they couldn't have been a threat to him in prison at that
7 time.

8 Q Now, how did you know they were still in County Jail?

9 A That's what he told me.

10 Q Okay. And how long had he been over at CIM when he
11 told you that?

12 A Typically, we'd interview the inmates within 10 days
13 from their arrival.

14 Q Now, did you prepare a memorandum of the information
15 that you obtained from the inmate?

16 A Well, I placed the information in his evaluation that
17 we wrote and I also talked to my supervisor and passed the
18 information on to him and I believe the gang coordinator, as
19 well.

20 Q And who was the gang coordinator then?

21 A I believe it was Cornelius Shephard. He was a
22 lieutenant. And my supervisor was Ted Fahey, and we
23 discussed the information. And there was subsequently a
24 phone call to the San Bernardino Sheriff's Department about
25 it.

1 Q All right. And how do you know there was a phone call
2 made to the Sheriff's Department?

3 A I think the phone call was made from my office with Ted
4 Fahey and Cornelius Shephard present, but I'm not certain at
5 this point.

6 Q All right. So you were present when the call was made?

7 A I believe so.

8 Q Well --

9 THE COURT: What do you mean you believe so?

10 THE WITNESS: Well, there was more than one
11 contact with the Sheriff's Department, and I don't remember
12 for sure whether it was the phone call when I was present or
13 we were just discussing it in my office.

14 BY MS. WILKENS:

15 Q Okay. Well, if you could be clear and tell me what you
16 specifically recall, all right? Do you recall being present
17 when a telephone call was placed to the Sheriff's Department
18 relating this information regarding the three Hispanic
19 males?

20 A I recall being in a conversation with Ted Fahey and
21 Cornelius Shephard. Now, whether we called at that time or
22 not, I don't remember.

23 Q All right. So you have no recollection of being
24 present when a phone call was made?

25 A It could have happened then, but I'm not sure.

1 Q Well, no. I'm asking you if you have any recollection.

2 I'm not asking what's possible. I'm asking what you know.

3 A I don't remember it happening.

4 Q All right. And do you recall when in 1984 this event
5 occurred?

6 A No. It would have been the beginning, probably
7 beginning of 1984, because I left shortly after that and
8 moved to Sacramento.

9 Q Okay. When did you leave CIM in 1984?

10 A It was probably around August.

11 Q All right. And you're positive that you spoke to Mr.
12 Fahey?

13 A Yes.

14 Q Okay. And he was your supervisor at the time?

15 A Right.

16 Q He wasn't on leave for a medical condition relating to
17 his heart?

18 A No, not when I spoke to him.

19 Q Okay. So you have specific recollection of having
20 spoken to him?

21 A Yeah. It would have been the beginning of '84, the end
22 of '83, right in that time period.

23 Q Okay. And you can specifically recall telling him the
24 information obtained?

25 A Right.

1 Q Okay. And do you know what Mr. Fahey did with the
2 information?

3 A He contacted the Sheriff's Department.

4 Q How do you know that?

5 A That's what he told me.

6 Q Okay. So he subsequently told you that he had
7 contacted the Sheriff's Department?

8 A Yes.

9 Q Okay. Did he say who he spoke to?

10 A No.

11 Q Do you know when he told you he contacted the Sheriff's
12 Department?

13 A It was within -- I think it was the same day he called,
14 or it could have been the next day. He indicated that he
15 talked to them, and I believe that they had indicated they
16 already had the person and they didn't think the information
17 was useful.

18 Q All right. But you don't know that. You were told
19 that by Mr. Fahey?

20 A I didn't actually speak to the Sheriff's Department,
21 no.

22 Q Okay. So Mr. Fahey said that to you?

23 A Yes.

24 Q Okay. And you're positive it's Mr. Fahey?

25 A Well, 20 years ago. That's what I remember.

1 Q Okay. You have a specific recollection? It couldn't
2 have been anybody other than Mr. Fahey?

3 A It could have been Cornelius Shephard. He was there,
4 also.

5 Q Well, in addition to?

6 A Yeah. Cornelius Shephard was the gang lieutenant and
7 he was the one typically that contacted outside law
8 enforcement agencies and was involved in investigations.

9 Q All right. Was Mr. -- was Lieutenant Shephard assigned
10 to the Investigative Services at CIM at the time?

11 A I believe he was the gang lieutenant. I don't know if
12 that was part of Investigative Services at that time or not.

13 Q All right. And you have a specific recollection that
14 it was Lieutenant Shephard?

15 A Yeah.

16 Q Okay. And you're sure that he was there when you spoke
17 to Mr. Fahey?

18 A As far as I can remember. I have a recollection of
19 talking to both of them about it.

20 Q Okay.

21 A We had a meeting about it.

22 Q You had a meeting?

23 A Yeah. We had a conversation about it.

24 Q All right. So you contacted both of them?

25 A Yeah.

- 1 Q To give them the information?
- 2 A Right. Well, I believe I contacted my supervisor
- 3 first, and then he included Cornelius Shephard into it since
- 4 he was the investigator.
- 5 Q All right. And it wouldn't have been anyone else at
- 6 CIM? It would have been Mr. Fahey and Lieutenant Shephard?
- 7 A That was the only ones I remember.
- 8 Q All right. And you have a specific recollection?
- 9 A Yes.
- 10 Q Okay. Now, if you could turn to Exhibit quadruple J in
- 11 the notebook?
- 12 A (Witness complies.)
- 13 Q And there's a declaration.
- 14 A Yes.
- 15 Q Is that your signature on the declaration?
- 16 A Yes, it is.
- 17 Q And did you sign it on the date that's indicated,
- 18 February 1, 2004?
- 19 A Yes.
- 20 Q And did you prepare the declaration yourself?
- 21 A No. I gave the information to someone named Andrea, I
- 22 believe her name was, and she typed it up, brought it back
- 23 to me, and I read it over and then signed it.
- 24 Q And do you know who Andrea represents?
- 25 A I believe she was with an outfit called The Sentencing

1 Project maybe or something to that -- from San Francisco.

2 Q And when did she contact you and discuss your
3 declaration, do you recall?

4 A It was within a few days before I signed the
5 declaration.

6 Q And did she tell you why she wanted the declaration?

7 A She was working on the Kevin Cooper case and I believe
8 she indicated they were attempting to get his execution
9 stayed.

10 Q And what did they ask you about? Did you have any
11 sense of how they knew to come and talk to you?

12 A Well, I believe --

13 MR. ALEXANDER: Objection, your Honor. Lack of
14 foundation. Speculation.

15 THE COURT: Overruled.

16 THE WITNESS: I believe it's because I had
17 contacted Paul Ingel, I believe it was three years ago, and
18 they probably got my name from him. That was my
19 understanding.

20 BY MS. WILKENS:

21 Q Okay. And so you yourself contacted Mr. Ingel?

22 A Yeah. I believe it was in August of 2001.

23 Q And why did you contact Mr. Ingel in August of 2001?

24 A Shortly before that, there was some TV news program
25 that I was half paying attention to. And after hearing a

1 couple of things that sounded familiar, sounded like it had
2 something to do with the Cooper case which I had recalled,
3 and they had indicated that the surviving boy had stated
4 that there were three Mexicans that actually killed his
5 family, and that matched what this other inmate had told me
6 20 years ago. So I just thought it would be worthwhile to
7 present that information to whoever was doing the
8 investigation. I believe they had indicated Paul Ingel was
9 an investigator working on the case, so I got a hold of him
10 and passed the information on to him. And then I didn't
11 hear anything for years, so I just assumed it wasn't --
12 didn't pan out until now this Andrea contacted me.

13 Q Mr. Ingel, did you see him on the television show? How
14 did you know to call him?

15 A His name was mentioned, and I just contacted the
16 television show and they said to call Paul Ingel. I think I
17 looked up his name on the internet, found him, called him.

18 Q Now, do you recall the network or the name of the show
19 that you contacted?

20 A No. It was a -- kind of like a 60 Minutes or 48 Hours,
21 one of those kind of deals.

22 Q And so you would have called Mr. Ingel close in time to
23 watching the show?

24 A Yes.

25 Q Okay. And did Mr. Ingel come out and talk to you after

1 you called him?

2 A No. I didn't actually meet with him.

3 Q Okay. Did you talk to him over the phone?

4 A Yes.

5 Q Okay. And did you tell him the information that you
6 had gotten from the inmate?

7 A Yes.

8 Q And did you tell him all the information that's in your
9 declaration?

10 A Basically, that's the extent of the information I had.
11 I passed that on to him, and then he asked if I knew any
12 other people that might have information and I gave him a
13 couple of names to contact.

14 Q And whose names did you give him, if you can recall?

15 A Mitch Carroll, who was the superintendent at the time,
16 and Donnie Eddings, that she had been his counselor. I
17 believe I told him Cornelius Shephard, that he was an
18 investigator. Those are the only ones I remember. Probably
19 told him Ted Fahey, also. I don't think there were any
20 other people that I recall.

21 He had asked me if -- I think he had some other names
22 and asked me if I knew some of these other people. They
23 were people I worked with, but I didn't have any idea what
24 they would have known about the case.

25 MS. WILKENS: Thank you, sir.

1 Nothing further, your Honor.

2 THE COURT: Mr. Alexander?

3 CROSS EXAMINATION

4 BY MR. ALEXANDER:

5 Q Mr. Krupp, we also met out in the hall briefly before
6 the hearing?

7 A Right.

8 Q That's the first time that you and I have ever met,
9 correct?

10 A Yes.

11 Q And we've never spoken before, either?

12 A No.

13 Q All right. What I said is correct, we have not spoken
14 before?

15 A That's correct.

16 Q Have you spoken with Ms. Wilkens prior to your
17 testimony today?

18 A Yes.

19 Q When was that?

20 A I met her in the hallway and I think I talked to her on
21 the phone --I don't know if it was last week or earlier this
22 week.

23 Q And can you tell me what was discussed between the two
24 of you?

25 A Today?

1 Q Not out in the hall, but a week or so ago.

2 A Basically that she wanted to know when I'd be available
3 and said that I would be required to testify in the case.

4 It was more of a logistics --

5 Q I'm sorry. More --

6 A Logistics.

7 Q And were you subpoenaed to testify?

8 A Yes.

9 Q Okay. Now, have you, sir, ever been interviewed by any
10 District Attorney of the State of California in connection
11 with the Cooper matter?

12 A No, I haven't.

13 Q All right. Have you, sir, been interviewed by anybody
14 you understood to be affiliated with law enforcement in the
15 State of California in connection with the Cooper case?

16 A No.

17 Q And that would include any person affiliated with the
18 California Department of Justice; is that correct?

19 A Correct.

20 Q And also the San Bernardino Sheriff's Department?

21 A Correct.

22 Q All right. Now, I may have missed this, and I
23 apologize if I did, but when you said you reported the
24 information to your supervisor, who was the supervisor?

25 A That would have been Ted Fahey.

- 1 Q Fahey was the supervisor?
- 2 A As far as I can remember.
- 3 Q All right. And it says supervisors. Is that to
- 4 include Mr. Shephard?
- 5 A No. He was not one of my supervisors.
- 6 Q All right.
- 7 A There might have been somebody in between. I was a
- 8 Correctional Counselor I. Ted Fahey was a III. There
- 9 normally is a CC II in between, but I don't remember who
- 10 that would have been.
- 11 Q All right. Now, did you make any notes of your
- 12 conversations with -- first with Mr. Fahey?
- 13 A No.
- 14 Q Or Mr. Shephard? Did you make notes of your
- 15 conversation with Mr. Shephard?
- 16 A No, I didn't.
- 17 Q And then there was a communication -- communications, I
- 18 guess, with the Sheriff's Department. Did you make any
- 19 notations of those communications?
- 20 A No, I didn't.
- 21 Q Uh-huh. The interview that you conducted in late
- 22 summer 1984, was that conducted at Chino Prison?
- 23 A I don't remember if it was the late summer of '84, but
- 24 yeah, it was at Chino Prison.
- 25 Q Well, you say on your declaration, "Sometime in late

1 summer I conducted an intake interview."

2 A I don't remember the exact date, but it was in that
3 time period.

4 Q All right. Very well. Have you made any effort, sir,
5 to determine who the individual was, the inmate was that
6 provided you the information that's on your Exhibit four
7 J's?

8 A Any -- I don't understand.

9 Q Have you made any effort to determine the name of the
10 individual?

11 A I would have no way of knowing unless I could remember
12 his name.

13 Q Well, you can look in files or the like.

14 A No. There would be no files for me to -- there's
15 thousands of files. I wouldn't be able to go through files.

16 THE COURT: Couldn't you go through the late
17 summer files, 1984?

18 THE WITNESS: Well, the way the Department of
19 Corrections has their files, they would be in the Archives
20 Unit in somebody's basement. They're not automated. I
21 would have no idea what files to look at. I mean, we have
22 163,000 inmates, so it would be --

23 MR. ALEXANDER: Well, there weren't 160 --

24 THE COURT: Not in late summer 1984.

25 THE WITNESS: No, but we have -- I mean, the files

1 are all -- it would be -- to me, it would be an impossible
2 task.

3 BY MR. ALEXANDER:

4 Q Do you know whether or not that inmate was then housed
5 at Chino after the intake interview?

6 A He would have been transferred to another prison, but I
7 don't know which one.

8 Q How do you know that?

9 A Because at the Reception Center, the inmates didn't
10 stay. They went somewhere else.

11 Q I see. Okay.

12 How long would records if they existed of intake
13 interviews in 1984 be maintained?

14 A Well, if you could find the Central file, they would
15 still be in there.

16 Q His Central file?

17 A His Central file.

18 Q Well, we've got to find him first.

19 A Correct.

20 Q All right. Well, then, my question is, since you have
21 some familiarity with the area, how we might go about
22 finding this person's name today or even three, four or five
23 years ago.

24 A The only way I could think of is if you had -- if you
25 knew the time period. If you said between June and July of

1 some time period and you asked for all the inmates from San
2 Bernardino County that came in to CIM during that time
3 period, and then you'd have to go back and find the files.
4 And then you'd have to know some description of the inmates
5 to narrow it down.

6 Q Well, I've got a description here. You recall him
7 being Caucasian, in his 20's, with blonde or reddish-blonde
8 hair.

9 A Yeah. But we would get several hundred inmates in
10 every week. So, over the course of a five-, six-month
11 period, you're talking about thousands of people.

12 Q How were the -- sorry, I want to pursue this a little
13 bit because maybe something will jog your recollection.
14 This is important.

15 How -- you filled out an intake form, correct?

16 A Well, there's a report we did.

17 Q Right.

18 A An Intake Assessment, that would go into the Central
19 file.

20 Q And that was then maintained -- was that maintained at
21 Chino or maintained somewhere else?

22 A It would be in the Central file that follows the
23 inmate. So if he goes to another institution, the file
24 would go with him.

25 Q So it wouldn't be at Chino, then, if he went somewhere

1 else?

2 A No.

3 Q Was a copy also sent somewhere, some other central
4 location for all prisons?

5 A No. It would go in the Central file. It would follow
6 the inmate. When the inmate goes out on parole, it would
7 follow him to parole. When he's discharged, it would go
8 back into the Archives Unit.

9 Q But you said a little bit ago, and then I'll move on,
10 your Honor, that if you knew the time period in which he had
11 been -- that the intake interview had been done, which we
12 have, late summer '84, so we're in a couple, three months
13 period of time. What could we then do to try and find out
14 this person's identity or name?

15 A Well, there's an automated system called the Offender
16 Based Information System.

17 Q Vendor Based?

18 A Offender Based Information System.

19 Q Okay.

20 A And within that system you could ask for a listing of
21 all inmates that came into the Reception Center in Chino
22 during some time period from a certain County, and you could
23 do some sorts on that, and you could probably come up with a
24 list of -- I would guess it's probably a couple hundred
25 inmates during that time period. And then you could go back

1 into pull the files out of the Archive Unit and go through
2 all the files one by one and see if they match.

3 Q So if I do what you just said, I'd end up with a couple
4 hundred inmates.

5 A I don't know. See, you're talking about San Bernardino
6 County, and I don't remember how many we would get in each
7 week from San Bernardino County. And when I say late
8 summer, I could be off by a couple of months, so you'd have
9 to expand that. So there would be quite a few files to go
10 through, but it could be done.

11 Q And does the fact that he had been held in San
12 Bernardino County Jail, is there -- are you familiar with
13 any system of identification of inmates there that we might
14 look to?

15 A No, I'm not.

16 Q You just don't know?

17 A I don't know.

18 Q Okay. Now --

19 THE COURT: Excuse me. Just to clarify that
20 offender database, was that operable in '84, '83?

21 THE WITNESS: I believe it started around '77, so
22 yes, it was. It's commonly referred to as "OBIS," O-B-I-S.
23 And then in each file would be a picture of each inmate, so
24 there would be a way of looking.

25 //

- 1 BY MR. ALEXANDER:
- 2 Q And now, Mr. Krupp, this gentleman whose name we don't
- 3 know told you that the murders related to the purchase or
- 4 sale of drugs?
- 5 A That was what he had told me.
- 6 Q He told you that?
- 7 A Right.
- 8 Q Well, is that -- you say he told you. Is that what he
- 9 told you the men said to him or is that information he had
- 10 personal knowledge of?
- 11 A No. That's information that the men told him.
- 12 Q Uh-huh. Now, did you tell -- do you know -- do you
- 13 recall specifically telling Mr. Ingel about that
- 14 information?
- 15 A I believe I told him that also.
- 16 Q Do you recall if you did or not?
- 17 A I believe I did.
- 18 Q All right. Did you know the name of the man at the
- 19 time you spoke to Mr. Ingel?
- 20 A No.
- 21 Q Did you recall his name?
- 22 A No.
- 23 Q So we'd have to go through the same process even when
- 24 you told Mr. Ingel as you're proposing now?
- 25 A Yes.

1 Q Okay. And the best of your recollection, Mr. Fahey,
2 Mr. -- do you know where Mr. Fahey is today?

3 A No. I don't have any idea.

4 Q Uh-huh. Do you know where Mr. Shephard is today?

5 A Last time I saw him, he was working at Pelican Bay
6 State Prison, and that was five or six years ago. I think
7 he retired, but I'm not certain.

8 Q What is the last information you have about where Mr.
9 Fahey was?

10 A I -- since I left CIM in 1984, I haven't contacted him
11 or heard anything about him.

12 Q Where did he live in '84, as best you know?

13 A I don't remember where he lived.

14 Q Okay. Are those the only -- those gentlemen are the
15 only two names you can recall of law enforcement people as
16 opposed -- no, I'm sorry. Those were both CIM people?

17 A Yes.

18 Q Okay. Who at the San Bernardino Sheriff's Department
19 was contacted?

20 A I didn't contact them. It was Ted Fahey and Cornelius
21 Shephard contacted them. So I don't know who they talked
22 to.

23 Q But you may have been present during one of those
24 calls, I think you testified?

25 A Right. But I don't recall who it was or what their

1 rank was.

2 Q Okay. But there's no doubt in your mind that they
3 contacted somebody there?

4 A There's no doubt about that.

5 Q Yeah. And the information that they said, "Thank you
6 very much, but we have the man or the person," that's
7 information Mr. Fahey or Mr. Shephard told you?

8 A Yes.

9 MR. ALEXANDER: Okay, No further questions, your
10 Honor. Thank you very much.

11 THE COURT: Any redirect?

12 REDIRECT EXAMINATION

13 BY MS. WILKENS:

14 Q Mr. Krupp, the inmates that would come to the Reception
15 Center for placement, did they come from jails throughout
16 the State of California?

17 A No. We only handled certain counties. At that time
18 there were two Reception Centers. Chino handled the
19 Southern counties and Vacaville handled the Northern
20 counties. But I don't know where the cutoff point was.

21 Q Do you recall how many Southern counties you received
22 inmates from?

23 A No. But L.A. County was probably the biggest one.
24 L.A. County, Orange County, San Bernardino, Riverside,
25 Imperial, Inyo, Santa Barbara.

1 Q Kern?

2 A I believe maybe Kern. There was 58 counties. Most of
3 them are small and they're in the North, but somewhere
4 around Bakersfield and down was Southern California.

5 Q San Diego County?

6 A Yeah. San Diego.

7 Q And you're positive sitting here today that the inmate
8 in question that you spoke to came from San Bernardino
9 County Jail?

10 A He came from San Bernardino County, right.

11 Q All right. And you specifically recall that?

12 A Yeah.

13 Q How is it you're able to recall that so many years
14 later?

15 A I don't know. That's what the guy told me. He would
16 have no way of knowing about the Ryan case or anything about
17 this, or what he told me about three Mexicans, unless he was
18 with them in San Bernardino County Jail.

19 Q Well, are you assuming?

20 A No, I'm not assuming. I remember that.

21 Q Okay. Well, you just said he'd have no way of knowing
22 about the Ryan murders unless he was in San Bernardino
23 County Jail.

24 A Right. I'm just saying that that's my assumption, but
25 I recall him being from San Bernardino County Jail.

1 Q All right. So independent of the assumption that you
2 made --

3 A Right. Independent, I recall that.

4 Q All right. And he told you he came from San Bernardino
5 County Jail?

6 A No. I would know that when I interviewed him.

7 Q All right. You would know that from his file?

8 A Right.

9 Q Now, you've indicated that you have no doubt that the
10 San Bernardino Sheriff's Office was contacted about your
11 information, but is it correct that you don't have any
12 personal knowledge sitting here today about any such
13 contact?

14 A I didn't personally contact them, no.

15 MS. WILKENS: Okay. Thank you, your Honor.

16 THE COURT: Anything else?

17 MR. ALEXANDER: Nothing, your Honor. Thank you.

18 THE COURT: All right.

19 MR. ALEXANDER: Thank you, Mr. Krupp.

20 THE COURT: You may step down.

21 MS. WILKENS: Your Honor, our next witness would
22 be Albert Ruiz.

23 MR. ALEXANDER: Your Honor, while we're waiting
24 for Mr. Ruiz, I just wanted to note for the Court that we
25 did provide to your Honor's clerk the resume, CV, whatever

1 you want to call it, of Mr. Vickery.

2 THE COURT: Oh, thank you.

3 MR. ALEXANDER: All right. And a copy for your
4 Honor.

5 THE COURT: He's with the lab?

6 MR. ALEXANDER: He is with the lab. In that
7 connection, we are going to provide you -- I thought I had
8 it with me, and I may very well have it somewhere --
9 information that sets forth the number of instances over the
10 last two years that National Medical Services Lab has
11 provided forensic testing services to State -- various
12 courts and agencies of the State of California. I think the
13 number I heard was about three-quarters of a million dollars
14 worth of business last year. I thought I had it with me,
15 but if not I'll provide it to the Court.

16 THE COURT: Now, why don't we get Mr. Ruiz in
17 here, and then later we'll talk about this?

18 MR. ALEXANDER: Okay. Thank you, your Honor.

19 (Pause.)

20 THE CLERK: Please raise your right hand.

21 ALBERT RUIZ - RESPONDENT'S WITNESS - SWORN

22 THE CLERK: Please be seated.

23 Will you please state your full name for the
24 record and spell your first and last name, please?

25 THE WITNESS: First name is Albert, A-L-B-E-R-T,

1 middle name Anthony, last name Ruiz, R-U-I-Z.

2 MS. WILKENS: Thank you, your Honor.

3 DIRECT EXAMINATION

4 BY MS. WILKENS:

5 Q Mr. Ruiz, have you ever been in the employment of the
6 San Bernardino County Sheriff's Department?

7 A No, ma'am.

8 Q Have you ever been employed as a law enforcement
9 officer?

10 A No, ma'am.

11 Q Have you ever told anyone that you were at one time a
12 member of the San Bernardino County Sheriff's Department?

13 A No, ma'am.

14 Q Have you ever told anyone that you were at one time
15 associated with the San Bernardino County Sheriff's
16 Department?

17 A No, ma'am.

18 Q Have you ever represented anyone that you at one time
19 had been a law enforcement officer?

20 A No, ma'am.

21 Q Were you ever present at the Chino Hills home of
22 Douglas Ryan?

23 A No, ma'am.

24 Q Did you ever tell anyone that you had been at the crime
25 scene following the Ryan-Hughes murders in the Chino Hills?

1 A No, ma'am.

2 Q Did you ever tell anyone that you had contact with any
3 of the San Bernardino County law enforcement officers
4 investigating the Ryan-Hughes murders in Chino Hills?

5 A No, ma'am.

6 Q Have you ever spoken to Christina Rebelo-Anderson?

7 A Yes, ma'am.

8 Q When did you first speak to her?

9 A Probably 15 years ago, something like that.

10 Q And where did you speak to her?

11 A At an audio car place that I owned at that time.

12 Q And when you spoke to her at your car business, did she
13 tell you that she was a reporter?

14 A No, ma'am.

15 Q When you spoke to her at your car business, did you
16 tell her that you had -- did you discuss with her that you
17 had a relationship with law enforcement?

18 A Yes, ma'am.

19 Q And what was the relationship with law enforcement that
20 you described to her?

21 A That I had done C.I. work for the Riverside Sheriff's
22 Department.

23 Q And did you discuss the Cooper case with her at your
24 auto business?

25 A Yes, ma'am.

- 1 Q Who brought the subject up?
- 2 A She did.
- 3 Q And what did she say?
- 4 A I believe at that time she wanted to know why I had
- 5 detective cars in my shop, and I had told her that because
- 6 we did all the tinting for the windows and I had a contract
- 7 with the Sheriff's Department at that time.
- 8 Q Now, which Sheriff's Department would that be, sir?
- 9 A That would be San Diego Sheriff.
- 10 Q And your business was located in San Diego County?
- 11 A Yes, ma'am.
- 12 Q And did you tell her that you thought Kevin Cooper was
- 13 a scapegoat?
- 14 A Yes, ma'am.
- 15 Q And was that statement based on your personal
- 16 knowledge?
- 17 A Personal opinion.
- 18 Q And did you state to her that the Ryan-Hughes murders
- 19 was a hit on the wrong family?
- 20 A Yes, ma'am.
- 21 Q And do you have any personal knowledge regarding the
- 22 Ryan-Hughes murders?
- 23 A Just hearsay.
- 24 Q So your opinion that the murders were the result of a
- 25 hit on the wrong family is your personal opinion?

1 A Yes, ma'am.

2 Q Did you ever receive any information from any member of
3 the San Bernardino County Sheriff's Department regarding the
4 Ryan-Hughes murders?

5 A No, ma'am.

6 Q Was the rumor you relayed to Ms. Rebelo-Anderson based
7 on any information give to you by any member of law
8 enforcement?

9 MR. ALEXANDER: Objection, your Honor. That's a
10 leading question.

11 THE COURT: Overruled.

12 THE WITNESS: Could you repeat the question again?

13 BY MS. WILKENS:

14 Q Yes. Was the rumor that you relayed to Ms. Rebelo-
15 Anderson based on any information you had received from
16 anyone known to you to be in law enforcement?

17 A Yes, ma'am.

18 MR. ALEXANDER: Your Honor?

19 THE COURT: Just a second.

20 MR. ALEXANDER: Also, using the term "rumor"
21 departs from the witness's prior testimony. It misstates
22 his testimony, your Honor. It's leading and argumentative.

23 THE COURT: You want to rephrase the question?

24 MS. WILKENS: Certainly, your Honor.

25 //

1 BY MS. WILKENS:

2 Q Mr. Ruiz, was the statement an opinion regarding the
3 hit on the Ryan family that you relayed to Ms. Rebelo-
4 Anderson, was that statement based on any information that
5 had been provided to you by anyone known to you to be in law
6 enforcement?

7 A Yes.

8 Q And who would that be, sir?

9 A I don't remember. It was so long ago.

10 Q All right. But you remember that it was someone in law
11 enforcement?

12 A Yes, ma'am.

13 Q Was it anyone in San Bernardino County law enforcement?

14 A No, ma'am.

15 Q When you spoke with Ms. Rebelo-Anderson, did you tell
16 her -- did she tell you -- I'm sorry. Did she tell you
17 whether or not she believed that Mr. Cooper was guilty of
18 the Ryan-Hughes murders?

19 A No, ma'am.

20 Q Did she tell you that she had any opinions with respect
21 to the Kevin Cooper case?

22 A Yes, ma'am.

23 Q And what were her opinions?

24 A Her opinions were that he didn't do that.

25 Q Okay. So she believed that he was innocent?

- 1 A Yes, ma'am.
- 2 Q And you agreed with her?
- 3 A Yes, ma'am.
- 4 Q And why did you agree with her?
- 5 A Just because of things that I had heard on the street
6 and talking to other friends about it.
- 7 Q Were you flirting with Ms. Rebelo-Anderson during this
8 meeting?
- 9 A No, ma'am.
- 10 Q Okay. So you weren't trying to impress her?
- 11 A No.
- 12 Q All right. Now, when did you find out that she was a
13 reporter?
- 14 A She called me I believe from New York on my cell number
15 about five years after that and told me she wanted to
16 interview me and this and that, and I told her, "I don't
17 know what you're talking about." And at that time she told
18 me she was doing an article for ABC or something and they
19 wanted me to come forward and tell the things that I told
20 her then. And I told her I would only talk to you about
21 what I heard and that's it, and I'm not going to go before
22 the media or anything.
- 23 Q Now, how did she have your cell phone number five years
24 later?
- 25 A I haven't changed my cell number for about 15 years.

1 Q All right. And how did she have your cell number when
2 you spoke to her earlier?

3 A Because it was a customary thing to do. If they had
4 any stereo problems with their car later, they could always
5 get a hold of me on off time so I could get their car in to
6 get it repaired.

7 Q All right. So you had your cell phone on your business
8 card?

9 A I wrote -- would write it on my business card.

10 Q All right. And you do that for all your customers?

11 A Yes, ma'am.

12 Q And is there a reason that you've maintained the same
13 cell phone number over the years?

14 A Not really. I've just never changed it.

15 Q Just happenstance. All right.

16 And you believe she said she was working with ABC News;
17 is that correct?

18 A I believe so. That's what I can recall, or some news
19 affiliate in New York.

20 Q All right. And when you spoke to her in 2001, was it
21 just the one conversation in that year?

22 A I believe so.

23 Q All right. And you declined to talk to her?

24 A That's correct.

25 Q Okay. And when did you hear from her next?

1 A She wanted to talk to me I believe like four months
2 ago, that this thing was coming to a head and that somebody
3 was going to die, and if I didn't come forward, this, that
4 and the other thing, that it would be on my conscience. And
5 at that time I told her, I said, "You know what? You made
6 things up, and I told you something and you said something
7 totally different. So if you want to talk to me, I'll talk
8 to you, but I don't want any media or anything else." And
9 she came to a place where I was doing a job and I walked
10 out, and all the media was there and I took off the other
11 way.

12 Q All right. Now, when you say that she contacted you a
13 couple of months ago, was it prior to the scheduled
14 execution of Mr. Cooper?

15 A Yes, ma'am.

16 Q Okay. And do you remember how close in time it was to
17 the execution, approximately?

18 A I believe a couple days.

19 Q All right. And why did you agree to meet with her in
20 person to talk to her?

21 A Just to straighten out what I told her, and what she
22 was telling people was totally different than what I said.

23 Q And so you arranged for her to meet with you?

24 A Yes.

25 Q All right. And did she come alone?

- 1 A No. She lied to me.
- 2 Q All right. And was there media accompanying her?
- 3 A Yes.
- 4 Q All right. So did you end up speaking to her that
- 5 time?
- 6 A No.
- 7 Q All right. So had you had any conversations with her
- 8 after your arranged meeting that you didn't attend?
- 9 A She called me and I told her that you lied to me and
- 10 I'm done with you.
- 11 Q Okay. And that was a telephone conversation?
- 12 A Yes, ma'am.
- 13 Q Okay. Have you spoken to her since then?
- 14 A No, ma'am.
- 15 Q Okay. And have you read an of the news reports of the
- 16 information that was attributed to you by Ms. Rebelo-
- 17 Anderson?
- 18 A Yes, ma'am.
- 19 Q Okay. And if you could open up the notebook in front
- 20 of you and turn to what's the tab labeled four-K. Exhibit
- 21 four-K. And inviting your attention to Exhibit four-K.
- 22 It's a four-page declaration. And if you could turn to page
- 23 4, sir --
- 24 A Okay. I'm with you.
- 25 Q -- and tell me if that's your signature on page 4?

1 A Yeah. Okay. Fourth page?

2 Q Yes.

3 A Yes, ma'am.

4 Q And did you sign this on the date that's indicated?

5 That would be April 19, 2004.

6 A Yes, ma'am.

7 Q And was this declaration prepared after you were

8 interviewed by agents from the California Department of

9 Justice?

10 A Yes, ma'am.

11 Q And were you interviewed by Special Agent Barbara

12 Shakowski and Charles Wilcomb on February 5, 2004?

13 A Yes, ma'am.

14 Q And did you answer their questions truthfully in your

15 interview?

16 A Yes, ma'am.

17 MS. WILKENS: Your Honor, I have no further

18 questions.

19 THE COURT: Thank you.

20 MR. EVANS: Good afternoon, your Honor. May I be

21 heard?

22 THE COURT: You may.

23 MR. EVANS: Thank you. My name is Gregory Evans.

24 I'm with Orrick, Herrington and Sutcliffe.

25 //

CROSS EXAMINATION

1
2 BY MR. EVANS:

3 Q Good afternoon, Mr. Ruiz.

4 A Good afternoon.

5 Q Mr. Ruiz, you were just asked about a declaration which
6 has been identified for -- or which has been marked for
7 identification as Exhibit four-K. And you were asked the
8 question -- you were asked the question, sir, whether you
9 had any specific recollection of discussing the Cooper case
10 with any law enforcement, and you said "no," right?

11 A I don't know if that's what I said or not.

12 Q Well --

13 A If I had any what?

14 Q Did you tell us --

15 A Wait a minute. What did you say?

16 MS. WILKENS: Your Honor, I'm going to object.
17 this is very argumentative.

18 MR. EVANS: I'm sorry.

19 BY MR. EVANS:

20 Q Do you have any specific recollection as you sit here
21 today, sir, as to whether you at any time discussed the
22 Ryan-Hughes murders with any member of any law enforcement
23 agency during the period of about 1983 to about 1985?

24 A Yes.

25 Q So you did discuss those murders with law enforcement?

1 A With friends of mine, yes.

2 MR. EVANS: Your Honor, referring the Court,
3 please, to Exhibit four-K at paragraph 3.

4 BY MR. EVANS:

5 Q Do you have that in front of you, sir?

6 A For which page? Where it says --

7 Q Says page 1 of 4 --

8 A -- 1 of 4?

9 Q Exhibit four-K.

10 A What page?

11 Q Page 1 --

12 A Okay.

13 Q -- of 4, sir.

14 A Uh-huh.

15 Q Is it true that you did not have any specific
16 recollection of discussing the Cooper case with any law
17 enforcement officer at the time that you signed this
18 declaration?

19 A Which paragraph?

20 Q Sir, it's at paragraph 3. It's the last sentence --

21 A Okay.

22 Q -- on page 1 of 4 to Exhibit four-K marked for
23 identification.

24 A (Witness reviews document.)

25 Okay. Now, what are you asking me?

1 Q Well, that statement says that you didn't discuss any
2 of the information regarding Cooper with law enforcement,
3 right?

4 MS. WILKENS: Your Honor, objection. Misstates --

5 THE WITNESS: No. You must have the wrong page,
6 because that's not what it says here.

7 BY MR. EVANS:

8 Q All right. Let me read it to you, then.

9 A Sure.

10 Q "I do not have a specific recollection of discussing
11 the Cooper case" --

12 A No. You're taking it out of context. Start at 3.

13 Q All right. I see that, sir, and you mention Mr.
14 Parsons (phonetic), who we'll get to.

15 A Well, then, start at 3.

16 Q Okay. Do you have a specific recollection of
17 discussing the Cooper case with any law enforcement officer?
18 Specific recollection.

19 A Specific as to what?

20 Q Specific recollection, sir.

21 A As to what?

22 MR. EVANS: Your Honor, may I have this witness
23 declared hostile, please?

24 THE WITNESS: I'm just trying to understand. I
25 don't understand.

1 THE COURT: You may. You can ask leading
2 questions. That's fine.

3 MR. EVANS: All right.

4 THE COURT: But I'm not declaring him hostile.
5 He's indicating you should read the paragraph 3 in its
6 entirety.

7 MR. EVANS: I see that, your Honor. Thank you.

8 BY MR. EVANS:

9 Q Isn't it true, sir, that you have given several
10 statements to the Department of Justice for the State of
11 California in connection with your work in the Inland Empire
12 as a confidential informant during the period of 1983?

13 A No.

14 MS. WILKENS: Objection. Relevance.

15 BY MR. EVANS:

16 Q All right. Let's back up, then.

17 Do you remember giving an interview to the Department
18 of Justice to -- in fact, the Special Agent who's in the
19 back of the courtroom who greeted you when you entered the
20 courtroom today?

21 A Yes, sir.

22 Q Okay. Do you know whether that statement was tape
23 recorded?

24 A Yes, it was.

25 Q Did you give permission to have that statement tape

1 recorded?

2 A Yes, I did.

3 Q Do you know whether that statement was transcribed by
4 an authorized court reporter?

5 A I don't know.

6 Q Have you ever seen a transcript of that interview, sir?

7 A Yeah.

8 Q You have?

9 A Yes.

10 Q When was the last time you saw that transcript?

11 A When they brought it over to have me sign it.

12 Q Was that -- perhaps you've misunderstood. You've
13 signed a declaration, sir, that we've referred to as Exhibit
14 four-K for identification, right?

15 A As far as I understand that, that's the transcript.

16 Q All right. No, then let's back up from there.

17 MR. EVANS: Your Honor, may I approach the
18 witness?

19 THE COURT: You want to have that marked?

20 MR. EVANS: Thank you.

21 MS. WILKENS: Your Honor, the transcript is --

22 THE COURT: Oh, actually it's already marked.

23 MS. WILKENS: It is, your Honor. It's four-L.

24 THE COURT: LLLL.

25 //

1 BY MR. EVANS:

2 Q Mr. Ruiz, I'd like to refer you to Exhibit four-L, if
3 you could please turn to that in your notebook?

4 A (Witness complies.)

5 Yes. I have it.

6 Q Exhibit four-L is entitled "Department of Justice,
7 Office of the Attorney General, In Re: People v. Kevin
8 Cooper. And it says that it's a transcript of an audio-
9 taped interview of Albert Anthony Ruiz. And then it goes on
10 to state a date of February 5, 2004. Do you see that, sir?

11 A Yes, sir.

12 Q Have you ever seen that transcript before?

13 A I don't recall seeing this one.

14 Q So you've never read the content of this interview?

15 A I don't believe so.

16 Q Okay. What is your legal name?

17 A Albert Anthony Ruiz.

18 Q Have you ever gone by any aliases?

19 A Yes, sir.

20 Q How many different aliases have you gone by?

21 A Two.

22 Q Did you bring your wallet with you to court today?

23 A No, I did not.

24 Q Why not?

25 A Well, I have it in my truck.

1 Q You knew you were coming into a United States District
2 Courthouse, right?

3 A Yes.

4 Q In fact, you couldn't get past security without your
5 wallet, right?

6 A That's correct.

7 Q You had no identification when you entered the court
8 today, right?

9 A No, I -- well, not on my person.

10 MS. WILKENS: Objection. Relevance.

11 BY MR. EVANS:

12 Q What is your true name, sir?

13 A Albert Anthony Ruiz.

14 (Pause.)

15 Q What other names have you gone by, sir?

16 A Chip.

17 Q Last name?

18 A Ruiz.

19 Q What else, sir?

20 A Al Anthony.

21 Q What else, sir?

22 A That's all.

23 MR. EVANS: May I approach?

24 THE COURT: You may.

25 MR. EVANS: Thank you.

1 THE COURT: You want to first have it marked as
2 next in order? That would be I think 33?

3 MR. EVANS: Yes, your Honor.

4 MS. WILKENS: Excuse me, your Honor. Isn't that
5 34? I thought we marked Mr. Verhay's letter as 33.

6 THE COURT: What number are we on? Did we skip
7 one?

8 (Pause)

9 THE COURT: Okay.

10 THE CLERK: That's the next one to mark.

11 THE COURT: What did you do with 32?

12 THE CLERK: 32 was the letter that was marked
13 earlier.

14 THE COURT: Oh. But we had said that -- you had
15 said that 32 was marked for identification?

16 MR. ALEXANDER: 31 we previously used, and then I
17 used 32.

18 THE COURT: is the letter?

19 MR. ALEXANDER: The Governor's letter, I believe.

20 MS. WILKENS: Oh, all right. I'm mistaken, your
21 Honor.

22 THE COURT: Okay.

23 MS. WILKENS: I thought we were through 32.

24 THE COURT: We are on 33.

25 MS. WILKENS: Okay.

1 MR. ALEXANDER: Thank you, your Honor.

2 BY MR. EVANS:

3 Q Mr. Ruiz, do you recognize any of these business cards.

4 A copy of them are together marked as Exhibit 33 for

5 identification.

6 A Yes.

7 Q What are these business cards, sir?

8 A I'm sorry?

9 Q What are these business cards? What --

10 A Business cards.

11 Q All right. But with various names, right?

12 A Two names.

13 Q And those are Al Anthony?

14 A Yes.

15 Q And what else, sir?

16 A Al Anthony.

17 Q All right.

18 A Okay.

19 Q And you go by Al Ruiz, also?

20 A No. I go by Albert Ruiz or Al Anthony.

21 Q And also Chip?

22 A Yes. That's what I told you.

23 Q Chip what, Chip Anthony or Chip Ruiz?

24 A Chip Ruiz.

25 Q Okay. Why have you used aliases in your lifetime, sir?

1 A At the beginning when I --

2 MS. WILKENS: Objection. Relevance.

3 THE COURT: 403.

4 MR. EVANS: We'll make an offer, your Honor, that
5 -- if you permit. Has that objection been sustained, your
6 Honor?

7 THE COURT: Sustained, 403. Not on relevance, on
8 undue prejudice.

9 MR. EVANS: Right. Right.

10 THE COURT: Lacks probative value.

11 BY MR. EVANS:

12 Q Well, Mr. Ruiz, tell us what a confidential informant
13 is.

14 MS. WILKENS: Objection. Relevance.

15 THE COURT: Sustained.

16 BY MR. EVANS:

17 Q Mr. Ruiz, in your capacity as a confidential informant
18 in the Inland Empire, did you work in or around police
19 stations at any time?

20 MS. WILKENS: Objection. Relevance and also the
21 scope, your Honor. I don't want a situation where Mr. Ruiz
22 is discussing matters completely unrelated to San Bernardino
23 County.

24 THE COURT: Sustained. Let's confine it to San
25 Bernardino.

1 MR. EVANS: Well, we need to back up, then, your
2 Honor.

3 BY MR. EVANS:

4 Q And, Mr. Ruiz, could you please then tell us what
5 comprises the Inland Empire in your experience.

6 A That's what I wanted to ask you. That what my question
7 to you was.

8 Q All right. You remember in your statement talking
9 about the community in the Inland Empire, do you not, sir?
10 You've used that term yourself in the tape-recorded
11 statement that you gave?

12 A I don't believe I used the word Inland Empire.

13 Q All right. You lived in the Inland Empire at some
14 time, did you not, sir?

15 A Once again, what is your interpretation of Inland
16 Empire? I've never heard that term used.

17 Q You have never heard the term Inland Empire --

18 A Well, now.

19 Q -- used before today?

20 A Yeah. I mean, I've never heard it used like you're
21 using it.

22 Q Like I'm using it or you've never heard it before?

23 A Well, I've probably heard it, but I mean this is the
24 first time it's been put into like a contents (sic). Like I
25 think of the Inland Empire as maybe a city or a town. I

1 don't know if it consists of other cities.

2 Q Did you serve as a confidential informant to the DEA
3 which service included the County of San Bernardino?

4 MS. WILKENS: Objection, your Honor. The scope of
5 the jurisdiction of the DEA is not relevant to what Mr. Ruiz
6 is doing.

7 THE COURT: 403. You can ask him whether he acted
8 as a confidential informant to San Bernardino County
9 Sheriff's Department.

10 MR. EVANS: Well, your Honor, it's a matter of
11 foundation. I suppose that when I go to the information
12 that he's going to offer, there will be an objection on the
13 basis of foundation because -- lacks foundation because he
14 was in a position to know where he got the information from.
15 We're trying to establish where he got the information from.

16 THE COURT: Perhaps you misheard me. You may ask
17 him about his work as a confidential informant for the San
18 Diego (sic) County Sheriff's Department.

19 BY MR. EVANS:

20 Q Mr. Ruiz, are you aware of any situations where San
21 Bernardino County Sheriff's Department and Riverside County
22 Sheriff's Department in your experience as a confidential
23 informant offered any mutual aid or support?

24 MS. WILKENS: Objection. Relevance. 402. I
25 mean, he's asking Mr. Ruiz to explain the procedures of

1 these departments. He's not asking about his contact.

2 THE COURT: Overruled. If you know.

3 THE WITNESS: I don't know.

4 BY MR. EVANS:

5 Q You're not aware that Riverside and San Bernardino
6 Counties offered mutual aid and support in certain
7 situations?

8 MS. WILKENS: Objection. Lack of expertise.

9 THE COURT: I think we're getting pretty -- 403.
10 We're getting pretty far afield.

11 MR. EVANS: Well, not she's arguing that it's a
12 lack of expertise, your Honor, and I'm trying to show that
13 he was a DEA informant.

14 THE COURT: We do not have speaking objections.

15 MR. EVANS: I understand, your Honor. Thank you.

16 THE COURT: So go ahead. You're free to explore
17 his work as a confidential informant with San Diego (sic)
18 County Sheriff's Department and you're free to continue to
19 ask your questions, and then I'll rule to the extent that
20 it's 403 or not.

21 MR. EVANS: Thank you, your Honor.

22 BY MR. EVANS:

23 Q Mr. Ruiz, as a confidential informant in Riverside
24 County, which you've stated you were right?

25 A Is that a question?

1 Q Yes, it is.

2 A Yes.

3 Q All right. Did you ever provide any information to the
4 Drug Enforcement Agency?

5 MS. WILKENS: Objection. Relevance. 403. We're
6 outside San Bernardino County again.

7 THE COURT: Sustained.

8 BY MR. EVANS:

9 Q Did you ever provide information to the DEA related to
10 the County of San Bernardino?

11 A No.

12 Q You shook your head and said "no"?

13 A Said no.

14 Q Okay. Did you ever in your capacity as a confidential
15 informant to Riverside County Sheriff's Department --

16 MS. WILKENS: Objection. Relevance. 403.

17 MR. EVANS: I haven't finished my question, your
18 Honor.

19 THE COURT: Let him finish the question, then I'll
20 rule.

21 MR. EVANS: Thank you.

22 BY MR. EVANS:

23 Q -- come into contact with any sheriff's from San
24 Bernardino County?

25 A No.

1 Q Not at any time?

2 A Not at any time.

3 Q Okay. As a confidential informant for Riverside
4 County, did you have access to the Riverside County police
5 station?

6 MS. WILKENS: Objection. Relevance. 403.

7 THE COURT: Relevance. Sustained. And 403.

8 BY MR. EVANS:

9 Q Did you -- okay.

10 Mr. Ruiz, in your tape-recorded transcribed statement
11 that you gave to Special Agent Barbara Shakowski you were
12 asked certain questions about information you learned in a
13 police station in Riverside County about the Ryan-Hughes
14 murders, right?

15 A No.

16 Q You weren't asked those questions?

17 A You just said did I ask questions about a police
18 station -- in a police station, and I said no, not in a
19 police station.

20 Q Well, the State of California came to visit you -- the
21 investigator who's back here came to visit you to ask you
22 questions about what you learned given your access to a
23 police station as a confidential informant, right? She came
24 and asked you questions about that, right?

25 A Yes.

1 Q And she asked you what you learned in that police
2 station, in that sheriff's station. She asked you what you
3 learned about the Ryan-Hughes murders, right?

4 A Not to my understanding.

5 MR. EVANS: All right. Let's look at that thing,
6 your Honor.

7 BY MR. EVANS:

8 Q I'd like you to now look at that transcript and please
9 turn to page 5. I'm going to read from line 18 through line
10 21.

11 MS. WILKENS: Objection, your Honor. The witness
12 should read it himself.

13 THE COURT: He would read it to himself. This
14 isn't a deposition.

15 BY MR. EVANS:

16 Q Please read those lines.

17 A Which ones?

18 Q Lines 18 through 21.

19 MR. EVANS: May he read them aloud, your Honor?

20 THE COURT: No. He should read them to himself.

21 (Witness reviews document.)

22 THE WITNESS: Okay.

23 BY MR. EVANS:

24 Q Now, you've read those lines. Does that help to
25 refresh your recollection as to whether or not you gave a

1 statement to investigators that the Cooper came up at the
2 station?

3 A That's not what that says.

4 Q All right. Doesn't it say, sir, that the Kevin Cooper
5 thing had come up at the station? That's a quote.

6 A Where?

7 Q Line 18 through 19.

8 A Okay

9 Q Let's back up.

10 A Okay.

11 Q At line 15 you said, "I was very privy to know what was
12 going on --"

13 A Uh-huh.

14 Q "--- on the streets."

15 A Uh-huh.

16 Q "And at the time the Kevin Cooper thing had come up at
17 the station."

18 A Uh-huh.

19 Q What station are you talking about?

20 A The station at Riverside.

21 Q All right. So that -- and what kind of station are --
22 is it a fire station you're talking about?

23 A A police station.

24 Q What policy agency?

25 A It doesn't say I was there at the police station.

1 That's what you're trying to say. You're trying to say I
2 was there at the police station.

3 Q Are you saying that you were never in the police
4 station?

5 A No.

6 Q Ever?

7 A No, I didn't say I was never at the police station.
8 You're trying to say that I said these things came up at the
9 police station. I heard about them with a ride-along and
10 like that kind of stuff. I wasn't in the police station.

11 Q What kind of ride-along, sir? What type of ride-along
12 are you talking about?

13 A I was deciding whether I was going to be a law
14 enforcement officer or not.

15 Q So you were in a police car when the Ryan-Hughes murder
16 came up, as well, correct?

17 A No. Not when the Ryan murder took place. I was in a
18 police car when my buddy and I, we were talking about
19 things.

20 Q What buddy?

21 A I don't even remember the guy's name.

22 Q But he was a police officer?

23 A Yes.

24 Q He was a sheriff's deputy?

25 A Yes.

1 Q And he had information that he gave you about the Ryan-
2 Hughes murder. You talked about that?

3 A No. He didn't have information. I was the one talking
4 about it, what I had heard from my guys on the street.

5 Q All right. So you had a conversation with a sheriff's
6 officer in a police car at/around the time that the murders
7 happened, right?

8 A Right.

9 Q Okay. And you knew somehow that the Cooper thing had
10 come up at the station, to use your words, right?

11 A Had come up at the station?

12 Q Yes.

13 A Probably, yeah. But you know, everybody was talking
14 about it at the station. That's -- you know, we're talking
15 about the station. I wasn't privy to actually hear somebody
16 at the station talking about it.

17 Q Did you give investigators your true statement that you
18 knew that the Kevin Cooper thing came up at the sheriff's
19 station at about the time that it happened?

20 THE COURT: What sheriff's station?

21 MS. WILKENS: Objection.

22 MR. EVANS: The Riverside County Sheriff's
23 Station.

24 THE COURT: That's 403. They're not involved.

25 //

1 BY MR. EVANS:

2 Q All right. Mr. Ruiz or Anthony -- is it Ruiz or
3 Anthony?

4 A Whichever you'd like.

5 Q All right. Have you ever said to any law enforcement
6 investigator that in your role as a DEA confidential
7 informant and as a confidential informant to the Riverside
8 County Sheriff's Office that you were privy to some
9 information that you shouldn't have had about these murders?

10 A I said I was -- can I state what I said?

11 Q I would like you to answer the question.

12 A Then I have to say no. You're asking the question
13 wrong.

14 Q May I please refer you then to page 5 at lines --

15 A Sure.

16 Q -- 22 through 25 --

17 A Okay.

18 Q -- of your tape-recorded statement given on August 5,
19 2004 to Special Agent Barbara Shakowski?

20 A Okay.

21 Q Are you there, sir?

22 A Yes, sir.

23 Q Could you please read lines 23 through 25?

24 A Yes.

25 Q Does that help to remind you what you said?

1 A Ask your question again, sir.

2 Q Well, didn't you say to investigators that you were,
3 quote, "privy to some information that I probably shouldn't
4 have had"?

5 A Yes, that I did.

6 Q Okay. And in the preceding question you were asked --
7 again you use the word "privy." You said, "I was very privy
8 to know what was going on on the streets," and you said that
9 "the Kevin Cooper thing came up at the station," right?

10 A No.

11 Q Read it. Lines 18 through 19.

12 A You're trying to put it in a format that I was at the
13 station.

14 Q I'm not asking you if you were at the station. You had
15 knowledge that the Kevin Cooper -- strike that -- that the
16 Ryan-Hughes murders had come up at the station right around
17 the time they occurred, right?

18 A Hearsay. Yeah.

19 Q Can we explore the foundation?

20 A Hearsay.

21 Q How did you learn that that was being discussed?

22 MS. WILKENS: Objection, your Honor. Relevance.

23 THE COURT: Relevance. 403. Unless you can make
24 a connection to San Diego -- San Bernardino County, then I
25 think whatever people are speculating out, talking about

1 other -- at other places is 403.

2 MR. EVANS: Your Honor, I would just submit,
3 respectfully, that this is not just another place. This is
4 a neighboring county and this is a sheriff's -- this is a
5 sheriff's station which he had special access to as a
6 confidential informant. But all right.

7 THE COURT: Sustained.

8 MR. EVANS: Thank you.

9 BY MR. EVANS:

10 Q Now, as a confidential -- strike that.

11 Given your knowledge of the DEA as a confidential
12 informant, sir, are you aware of whether the DEA covers --
13 the people that you were working with covered both San
14 Bernardino and Riverside County?

15 MS. WILKENS: Objection. Relevance. 403. And
16 asked and answered and --

17 THE COURT: Sustained. We already went over that.

18 MR. EVANS: Well, your Honor, maybe we should do
19 this under seal or ask the witnesses to be excluded, but if
20 the DEA -- may I be heard?

21 THE COURT: No. We don't do speaking objections.
22 You may ask your question and I'll rule on an objection.

23 BY MR. EVANS:

24 Q Did you say to Special Agent Shakowski that all the
25 cops in the area knew one another?

1 A In Riverside. They never brought up San Bernardino to
2 me.

3 Q Weren't you just asked a series of questions here, sir,
4 about San Bernardino County?

5 A Sure.

6 Q All right. And those questions were asked of you
7 during an interview or not?

8 A Yes, they were.

9 Q All right. And did you say at any time that you were
10 working with two separate groups of police officers and that
11 they all knew each other?

12 A Two separate groups, yes.

13 Q And they all knew each other?

14 A Yes.

15 Q In the Inland Empire?

16 A There's two separate groups. There's DEA and there's
17 Riverside Sheriff's Department. Okay? The DEA I was
18 working with was with Riverside Sheriff's Department in the
19 same building, in the same Riverside.

20 Q You were just asked the question of whether you'd ever
21 served as a law enforcement officer of any type.

22 A Yes, sir.

23 Q And you said no.

24 A Yes, sir.

25 Q Isn't it true, sir, that you have been deputized as a

1 sheriff in the State of California?

2 A I was asked if I'd ever been on their payroll or been
3 paid by the Sheriff's Department or any law enforcement.

4 Q But you have, in fact, been deputized as a sheriff?

5 A Yes.

6 Q And the work that you were doing as a confidential
7 informant, too, is Riverside Sheriff's Department and the
8 DEA included drug trafficking that involved the entire
9 Inland Empire, correct?

10 MS. WILKENS: Objection. Relevance. 403.

11 THE COURT: I'll let you ask this question.

12 MR. EVANS: Thank you.

13 THE COURT: Just for -- as preliminary, but --

14 THE WITNESS: No.

15 BY MR. EVANS:

16 Q The drug trafficking that you were somehow reporting on
17 or involved in somehow as a confidential informant, was it
18 limited solely to the borders of Riverside County?

19 THE WITNESS: Your Honor, at this point I'll take
20 the Fifth.

21 THE COURT: Well, it's not the Fifth, but I
22 think --

23 THE WITNESS: Well, whatever it is.

24 THE COURT: It's a question of relevance.

25 THE WITNESS: I can't answer that. It endangers

1 my life.

2 THE COURT: I think it's a question of relevance
3 and 403. We're not getting -- you can talk to him about San
4 Bernardino County.

5 MR. EVANS: May I have a moment, your Honor?

6 THE COURT: You may.

7 MR. EVANS: Thank you.

8 (Pause.)

9 BY MR. EVANS:

10 Q What county is in the city of Chino in, sir?

11 A I believe it's in San Bernardino County.

12 I don't know. How's that? I don't know.

13 Q You don't know where the city of Chino is? Could it be
14 in Riverside?

15 A I don't know.

16 MS. WILKENS: Objection, your Honor. Relevance.
17 403.

18 BY MR. EVANS:

19 Q Now, have you ever stated to any --

20 THE COURT: Well, actually, do you know which it
21 is?

22 MR. EVANS: Well, I'm not testifying, your Honor.
23 But what we're going to show you here -- well, excuse me.

24 BY MR. EVANS:

25 Q Mr. Ruiz, you said to investigators that the Mayor of

1 Chino was involved somehow in the Ryan-Hughes murders,
2 correct?

3 A My opinion.

4 Q Right. You'd heard that in the police station, right?

5 A No.

6 Q All right. You had access to the station, right?

7 A I never had access to the station. I never said that.

8 THE COURT: You worked with police officers.

9 BY MR. EVANS:

10 Q You worked with police officers?

11 A Correct.

12 Q All right. And you talked to police officers?

13 A Correct.

14 Q And you provided information to police officers?

15 A Correct.

16 MS. WILKENS: Objection. Relevance. 403.

17 THE COURT: So far, okay.

18 BY MR. EVANS:

19 Q And you talked about the Ryan-Hughes murders with
20 police officers?

21 A With a couple.

22 Q And in some of the information that you received you
23 believed you were privy to because of those conversations
24 you had with police officers?

25 A That's correct.

1 Q All right. And this was information that you were
2 privy to that you shouldn't have, in your opinion, right?

3 A In my opinion.

4 Q Why?

5 A Because we're here now, that's now.

6 Q Well, no. Why was it at the time --

7 A I'm telling you, sir. That's why exactly. Because
8 we're here now. That's why.

9 Q My question, sir, is why do you believe -- is it your
10 opinion that you were privy to information regarding these
11 murders? In your capacity as a confidential informant to
12 law enforcement in the Inland Empire, why do you believe you
13 should not have had that information?

14 A Well, now, again, because we end up here now. That's
15 why. I didn't want this to follow me in any which way. I
16 wanted my deal closed. For instance, waking up a can of
17 worms, in my opinion, because of the things that I had done
18 before working with the Department, trying to open
19 everything up, and I can't do that.

20 Q What are you worried about opening up?

21 A People put away.

22 THE COURT: That's 403. We don't have to go into
23 that.

24 MR. EVANS: Okay. I move to strike. That's just
25 not responsive, your Honor.

1 Excuse me. Let me ask this.

2 BY MR. EVANS:

3 Q Sir, you have an opinion that the information you got
4 about the Ryan-Hughes murders from law enforcement you
5 shouldn't have had, right?

6 A The opinion was my opinion. It was my self opinion,
7 not opinion that whether the information was good or bad.

8 Q Right. So let's talk about your opinion. Why do you
9 believe that it was inappropriate for you to have this
10 information about these murders at about the time that they
11 occurred which you got from law enforcement, sir?

12 A I never said it was inappropriate.

13 Q Well, you said it was -- you were privy to some
14 information -- I'm quoting from page 5, lines 23 to 25 of
15 the exhibit you have before you, sir -- that you were,
16 quote, "privy to some" --

17 MS. WILKENS: Objection, your Honor. And I will
18 also ask that the witness be permitted to read the next five
19 lines on the next page, because you keep quoting something
20 that was from 1995, and it's completely out of context and I
21 object to this.

22 THE COURT: Sustained.

23 BY MR. EVANS:

24 Q All right. Would you please answer the question, sir,
25 as to why you believe that you shouldn't have had the

1 information that you were privy to in your role as a
2 confidential informant to law enforcement at the time of the
3 murders? Why do you believe that, sir?

4 A It was -- I mean, I just believe that. That's all.

5 Q Because it was given to you inappropriately or you had
6 improper access, or what are the reasons, sir, that you
7 think that you shouldn't have had it?

8 A Okay. Just in my opinion, because I knew a lot of
9 things that were going on in the street. And hearing this
10 and that, I didn't want to be called in on another case that
11 I wasn't even involved in. But I also enjoyed hearing what
12 was -- I mean, not enjoyed, but I wanted to learn to see if,
13 you know, here, well, this has happened over here.
14 Everybody always talked about what's happening and this and
15 that. That's all.

16 Q And you were learning these things from law
17 enforcement, right?

18 A Not -- no.

19 Q Not only.

20 A I wasn't. Not from law enforcement.

21 Q Not at all from law enforcement?

22 A I wasn't learning. I was telling them.

23 Q You were hearing information or a discussion. You ere
24 overhearing a discussion that involved law enforcement
25 regarding these horrible murders, right?

- 1 A I was not overhearing anything. I was talking it with
2 the guy that I was riding with, and I was telling --
- 3 Q And he was a police officer.
- 4 A -- what I heard on the streets.
- 5 Q All right. So if you were privy to information that
6 you shouldn't have had from law enforcement -- right?
- 7 A Uh-huh.
- 8 Q Oh, by the way, you were also shown photographs of the
9 murder scene, weren't you, sir, by law enforcement?
- 10 A No.
- 11 Q Are you saying you never saw photographs?
- 12 A I saw some, but I don't know if it was that particular
13 case or what it was. I saw photographs.
- 14 Q Do you know whether you saw photographs of the murder
15 scene in your role as a DEA informant or a confidential
16 informant to a police agency?
- 17 A In my opinion, I thought that's what I was looking at.
18 I don't know if that's what I was looking at. Nobody said,
19 "Here's pictures and this is the Kevin Cooper homicide."
- 20 Q What led you to believe that you were looking at
21 pictures of the homicide scene in the presence of police
22 officers?
- 23 A I wasn't in the presence of police officers.
- 24 Q Well, where were you when you saw those photographs?
- 25 A Around buddies.

1 Q How did you get those photographs?

2 A I didn't have them. They had them.

3 Q What led you to believe you were looking at photographs
4 of the crime scene, sir, in this case?

5 A Well, the conversation was about the case and about
6 homicides, and they were just like, "Well, here's a real
7 good homicide." And I never bothered to really ask what it
8 was or anything.

9 Q What was it about that photograph that led you to tell
10 investigators in a tape-recorded interview that you were
11 provided access to photographs of the crime scene in the
12 Ryan-Hughes matter?

13 A Because I was provided, but not by law enforcement. I
14 never said law enforcement.

15 Q How would a lay person have access to photographs of a
16 crime scene following the murder, immediately following the
17 murder, sir?

18 A I can find anything you want on the internet.

19 Q Was the internet prevalent at the time?

20 A No, but --

21 Q In 1983, sir?

22 A -- I'm sure they had other things.

23 THE COURT: Look at -- it's talking about 1995.

24 BY MR. EVANS:

25 Q Sir, were you a DEA confidential -- let clear that up.

1 Thank you, your Honor.

2 Were you acting as a DEA confidential informant right
3 around the time of the murders?

4 A For what Department?

5 Q Any Department at all.

6 A Yes.

7 Q What Department?

8 A Riverside.

9 Q All right. And, in fact, you learned of the murders --
10 strike that.

11 In fact, you learned of Mr. Cooper's release or escape
12 from Chino the afternoon or somehow during the day before it
13 had even been publicized, right?

14 A No. It was on the news.

15 Q Is that how you learned of it?

16 A Yes.

17 Q Okay. You refer to the guys at the station as just
18 that, right, "the guys at the station"?

19 A Sure.

20 Q Okay. And do you remember telling investigators that
21 the guys at the station said that this was a hit gone south?

22 A Yes.

23 Q And --

24 A That was their opinion. That's all.

25 Q But these were police officers that were saying this,

1 right? These were sworn officers. These were sworn members
2 of a police agency in the Inland Empire, right?

3 MS. WILKENS: Objection. Relevance. 403.

4 THE COURT: Sustained.

5 BY MR. EVANS:

6 Q One of the things you learned in this setting given
7 your role was that there were -- you learned this from these
8 police officers, was that there was blonde hair in the hand
9 of one of the victims, right?

10 A No, I don't --

11 MS. WILKENS: Objection. Relevance. 403.

12 THE COURT: I think we can close that up. We
13 already have the report. The report does not -- we have the
14 report from Dr. Melton of the mitochondrial DNA.

15 MR. EVANS: Thank you. I'll withdraw the
16 question. I'll withdraw the question.

17 BY MR. EVANS:

18 Q Can I please refer you, sir, to page 11 of your
19 statement?

20 THE COURT: Well, let me go back, unless you're
21 returning to this for a different purpose. So go ahead.

22 MR. EVANS: Well, look, your Honor, we have an
23 interview where this witness has gathered and gained
24 information from law enforcement at the time of the murders
25 and following the murders which indicate that -- or could

1 indicate that there was a lot more known at the time.

2 MS. WILKENS: Your Honor, I object to any
3 information obtained outside of San Bernardino County
4 because it's not an official source of information. I can't
5 really see the relevance of rumor and innuendo, whether it's
6 from sworn peace officers or not, outside the investigating
7 agency.

8 THE COURT: I do agree.

9 MR. EVANS: Your Honor, will you take brief
10 argument on this point?

11 THE COURT: No. You can just go ahead and ask your
12 question.

13 MR. EVANS: I --

14 THE COURT: If you -- I'll let you explore about
15 the blonde hair, about when he learned it, the time he
16 learned it.

17 BY MR. EVANS:

18 Q Did you learn about the blonde hair at about the time
19 that the murders occurred, sir?

20 A Yes.

21 Q Okay. And this was known to, as you say, the guys at
22 the station, right?

23 A This was known to everybody on the street.

24 Q But it was also known to the guys at the station,
25 right?

1 A Probably.

2 Q Well, do you recall saying -- I'll refer you to page 11
3 -- that, of course, you were privy to some information that
4 was going on in this particular case. And then I refer you
5 to lines 15 through 17 was -- where you said to
6 investigators recently, quote, "One of the things was, is
7 that this time we knew that the girl had hair, blonde hair
8 in her hand. Okay? It didn't match anybody."

9 "This time" referring to the period of 1983 when you
10 were working in this capacity as a confidential informant,
11 right?

12 A Okay. Now, what was your question again? I'm sorry.

13 Q Clarify for us, if you would, that when you were
14 talking about "this time," "One of the things was that -- is
15 that this time we knew that the girl had hair, blonde hair,"
16 and it goes on. What time are you referring to there, sir?

17 A Right after it happened.

18 Q All right. When you were a confidential informant?

19 A Yes.

20 Q And then if you could please read lines 24 and 25 and
21 tell me when you're ready to talk about that?

22 THE COURT: What page are we on?

23 MR. EVANS: I'm sorry, your Honor. We're at page
24 11, Exhibit four-L.

25 //

1 BY MR. EVANS:

2 Q Just 24 and 25, Mr. Ruiz.

3 A (Witness reviews document.)

4 Okay.

5 Q In that line where it says, "The guys were saying no,
6 this is just, umm, a hit gone south," what guys are you
7 talking about?

8 A The guys on the street.

9 Q Oh, guys on the street. Even though before we're
10 talking about guys at the station?

11 A Right.

12 Q And the investigators did nothing to clarify what guys
13 you were talking about when you gave that statement, did
14 they?

15 A I don't have anything here.

16 Q And I asked you when you came through the courthouse
17 doors today after your -- after you were stopped by
18 security, I asked if you would to me before you took the
19 stand. You said, "No, I'll only talk to the State," right?

20 A Right. Because you guys lied to me.

21 Q Isn't it true, sir, that you said that you learned from
22 police officials that they got the wrong family?

23 A I didn't learn that from the police.

24 Q Isn't it true that you, sir, learned from police that
25 the Mayor of Chino was involved?

1 A No.

2 Q Isn't it true, sir, that you said that you learned of
3 conversations in the station where Mr. Cooper was described
4 as a scapegoat?

5 A No.

6 MS. WILKENS: Objection, your Honor. Vague.
7 We're talking about stations and police. You already
8 indicated that we're going to stay with --

9 THE COURT: Yes. If you can combine it, we're
10 trying to get whether he talked to anybody from the District
11 Attorney's Office or San Diego -- San Bernardino County
12 Sheriff's Department, the investigating agencies.

13 MR. EVANS: So, even though the DEA, your Honor,
14 was involved here somehow with Mr. Ruiz, if he learned it
15 from the DEA and there's an inference here that there's drug
16 activity that was at least --

17 THE COURT: That's pure speculation.

18 MR. EVANS: Well, okay. Thank you, your Honor.

19 BY MR. EVANS:

20 Q Do you remember saying to investigators, sir, that they
21 wanted to take -- I don't know. We'll clarify who you mean
22 by "they." That they wanted to take the attention and dig
23 deeply into this more -- what do you call it, "digging
24 digging" -- more information up in this case? So they were
25 going to drop the load on Cooper. Who's "they"?

1 A People on the street. Drug dealers.

2 Q Well, how would drug dealers be in a position to drop
3 the load on Cooper?

4 A Your job, not mine.

5 Q No. Tell me, sir, what did you mean when you said --
6 what's "drop the load" mean, by the way?

7 A To me it's the -- to me, what my understanding was,
8 this was a big mess and they were going to try -- the people
9 on the street were going to try and drop this loan on
10 Cooper.

11 Q What do you mean that it's a big mess?

12 A Well, it's just what I heard on the street. That's
13 all. It's hearsay.

14 Q And in the car riding along with the police officer.

15 A Not these particular things.

16 Q So if we talk to now Sergeant Parsons and ask him if he
17 said any of these things --

18 By the way, have you talked to Sergeant -- withdraw the
19 question.

20 Have you talked to Sergeant Parsons?

21 A No, sir.

22 Q Do you remember, sir, that you said to this
23 investigator from the state, Barbara Shakowski, that they
24 were going to drop the load on Cooper and make him a
25 scapegoat? Do you remember saying that?

1 A Yes.

2 Q All right. How could drug dealers be in a position to
3 scapegoat Cooper? How is that possible, sir?

4 A I don't know.

5 Q You're familiar with that underworld. How could that
6 happen?

7 THE COURT: Calls for speculation. He's not
8 qualified as an expert in this.

9 BY MR. EVANS:

10 Q Do you have any idea? Do you know how that might
11 happen, sir?

12 A I see a lot of things happen.

13 THE COURT: He's not qualified as an expert.

14 BY MR. EVANS:

15 Q Do you know of any specific information that would have
16 placed drug dealers in the position to have dropped a load,
17 to use your term, on anyone for this crime?

18 A No.

19 Q So when you said that they were going to drop the load
20 onto Cooper, you still maintain before this Court that you
21 were not talking about law enforcement, that you were
22 talking about people on the street?

23 A Right.

24 Q Now, do you remember in your interview with Special
25 Agent Shakowski being asked to tell her who within law

1 enforcement told you some of these things? Do you remember?

2 A Yes.

3 Q All right. Do you remember being reluctant to do that?

4 A Yes.

5 Q And do you remember that she kept asking you, that if
6 you thought you knew who in particular from any Sheriff's
7 Department might have some of this information that you
8 should share the name?

9 A Yes.

10 Q And you first said that you didn't remember.

11 A Right.

12 Q Okay. And then you said later that you didn't want to
13 get anyone in any trouble, right?

14 A Right.

15 Q That was on page 14 at line 18.

16 You were then again asked for the name, and you said at
17 that time, and I'll quote, "He is in law enforcement."

18 A Yes.

19 Q And that was referring to the information that was
20 given to you about scapegoating, about dropping the load,
21 about all these things we've talked about today, isn't it,
22 sir?

23 A No, sir.

24 Q All right. What is it -- what could we be talking
25 about there, then?

1 A We're talking about the stuff we -- I don't know
2 whether he could be talking about things like that with me
3 or not. Things of what happened, what I heard on the
4 street.

5 Q You were asked if anybody in law enforcement gave you
6 this information, and you were reluctant to give a name,
7 right?

8 A Yes.

9 Q And then you gave up a name.

10 A Yes.

11 Q In response to the question about -- from the
12 investigator. In response to the question about who in law
13 enforcement gave you information about Mr. Cooper being
14 scapegoated, a drug deal gone bad, dropping the load and all
15 that? And then you finally said, didn't you, sir --

16 A No.

17 Q We can go through the testimony. We have the tape. In
18 fact, we could play -

19 MS. WILKENS: Your Honor, I'm going to object
20 under 403.

21 THE COURT: Sustained. Argumentative. Compound.
22 403.

23 MS. WILKENS: And outside San Bernardino County
24 again.

25 THE COURT: Yes. You can ask him questions.

1 MR. EVANS: Your Honor, there's a code of silence.

2 THE COURT: We're not having any speaking
3 objections. You may ask him a question. Why do you think
4 we're subpoenaing the witness? We're here to see what he's
5 got to say.

6 MR. EVANS: A witness who has three different
7 aliases, who doesn't bring identification to the courthouse,
8 who admits that he was a confidential informant, who won't
9 tell us --

10 THE COURT: We're not here for a speaking
11 objection. Ask a question.

12 BY MR. EVANS:

13 Q Sir, did you say --

14 Thank you, your Honor.

15 Did you say to Agent Shakowski at any time that you
16 said that you knew and that you know that the guys in law
17 enforcement were talking about the Ryan-Hughes murders and
18 these issues --

19 MS. WILKENS: Objection. Vague. 403. Outside
20 San Bernardino County.

21 MR. EVANS: That was his term, "law enforcement."

22 THE COURT: 403. Sustained.

23 BY MR. EVANS:

24 Q Did you ask Special Agent Shakowski to swear that if
25 you told her who in law enforcement all of this information

1 came from, the specific information about scapegoating and
2 dropping the load, that she had to promise that it wouldn't
3 come back to, and I quote, "bite him in the ass"?

4 Pardon me, your Honor.

5 MS. WILKENS: Objection.

6 MR. EVANS: Page 15, line 1 through 4.

7 MS. WILKENS: Objection. 403. We are outside San
8 Bernardino County.

9 THE COURT: Sustained. You can ask as far as
10 bias. You could ask -- you could rephrase the question.

11 BY MR. EVANS:

12 Q Were you reluctant, sir, to finger or to identify now
13 Sergeant --

14 Is it Parsons?

15 A Yes.

16 Q -- as the person who gave you the information about
17 dropping the load?

18 A Not on the things you're saying.

19 Q Were you reluctant to do that because you were worried
20 that that was going to get him into trouble?

21 A No.

22 Q Didn't you say in this interview that you were -- you
23 asked Agent Shakowski to promise that it wouldn't come back
24 to bite him in the ass, as you said on page 15, line 1
25 through 4?

1 A That's correct.

2 MS. WILKENS: Objection, your Honor. If he wants
3 to refresh the witness's recollection, he could do so, but
4 he is reading from the interview.

5 THE COURT: He's leading the witness, which you
6 may. Go ahead.

7 MR. EVANS: Thank you, your Honor.

8 BY MR. EVANS:

9 Q You then said that you remember having conversations
10 about the murders with this law enforcement official, right?

11 A Yes.

12 Q You finally gave it up. You finally said -- when
13 pressed to tell the investigators, you finally said that the
14 name of the person who had this information, who gave you
15 this information, was Jim Parsons, right?

16 A You're taking it out of context. I'm going to say no.

17 Q Well, how have I taken it out of context?

18 THE COURT: I think it's argumentative the way you
19 say -- you could say, "Was the person Jim Parsons?" or "Did
20 you say it was Jim Parsons?"

21 BY MR. EVANS:

22 Q Did you say it was the person, Jim Parsons?

23 A To what?

24 Q The person who gave you the information about the
25 pressure to find a suspect, to keep the digging from

1 happening, the drug involvement, the scapegoating, drop the
2 load on somebody, all those things. Are you testifying here
3 in this federal courthouse, sir, that you never said that to
4 anyone?

5 A No.

6 Q No what? No, your never said it?

7 A No, sir.

8 Q Well, then, let me ask you this. Why did you give
9 investigators Jim Parsons' name?

10 A Because I had talked to Jim Parsons about the murders.

11 Q Okay. What did you say? Tell us now what exactly you
12 talked about with Jim Parsons about the murders.

13 THE COURT: Before we do that, first find out, is
14 Jim -- who is Jim Parsons with?

15 BY MR. EVANS:

16 Q Was Jim Parsons a police office?

17 A Yes, sir.

18 Q Was he a peace officer in the State of California?

19 A Yes, sir.

20 Q Did he work in the Inland Empire?

21 A Explain Inland Empire. You still haven't done that.

22 Q The counties of Riverside and San Bernardino.

23 A County of Riverside.

24 THE COURT: Okay. If it's County of Riverside,
25 then what they talked about is 403.

1 BY MR. EVANS:

2 Q Have you, sir, at any time learned that in law
3 enforcement in the --

4 THE COURT: Unless he worked in San Bernardino,
5 but I don't think --

6 THE WITNESS: No.

7 BY MR. EVANS:

8 Q You are, sir, aware that Riverside and San Bernardino
9 Counties neighbor one another?

10 A So does San Diego and San Bernardino.

11 Q Do you know whether Riverside and San Bernardino
12 neighbor one another?

13 A I think you have to go through one to get to the other.
14 I haven't gone that way in a long time, but I think so. I
15 don't know if it's been divided since then.

16 Q You lived in Corona at one time, right, sir?

17 A Yes, sir.

18 Q How many different counties would you go through on the
19 way to Corona?

20 MS. WILKENS: Your Honor, 403.

21 THE WITNESS: Corona's in Riverside.

22 THE COURT: Wait just a second.

23 Repeat the question.

24 MR. EVANS: I'll withdraw the question, your
25 Honor.

1 THE COURT: Okay.

2 BY MR. EVANS:

3 Q Did you ever say to investigators that you know that
4 Jim Parsons, a sheriff's deputy in Riverside County, knows
5 all about this case?

6 MS. WILKENS: Objection. 403. Outside San
7 Bernardino County.

8 THE COURT: Sustained.

9 BY MR. EVANS:

10 Q Did Jim Parsons set you up to work with the DEA?

11 A Yes.

12 Q And you did discuss the Ryan-Hughes murders with Jim
13 Parsons?

14 MS. WILKENS: Objection. 403.

15 THE COURT: I think we've established that.

16 You want to answer that question?

17 THE WITNESS: I'm sorry?

18 BY MR. EVANS:

19 Q Was it Jim Parsons that you discussed -- of the
20 Riverside County Sheriff's Office, that you discussed the
21 Ryan-Hughes murders at the time that they occurred in 1983?

22 A Yes.

23 Q Was it Mr. Parsons that deputized you?

24 A No, sir.

25 Q Who was it that deputized you?

- 1 A I don't remember at the time.
- 2 Q Can you say whether it was --
- 3 A It was a Riverside sheriff.
- 4 Q It was Riverside sheriffs? How many different times
- 5 have you been deputized?
- 6 A Just once.
- 7 Q And was it Mr. -- or Sergeant Parsons? Now, was it
- 8 Sergeant Parsons that, or at the time Deputy -- Deputy
- 9 Parsons that showed you some of the photo evidence in this
- 10 case?
- 11 A No.
- 12 Q Do you remember where you were when you were shown
- 13 photo evidence in this case?
- 14 A I was at this club called The Palomino Station, and we
- 15 were outside about 3:00 o'clock in the morning.
- 16 Q Where outside were you when you were shown --
- 17 A Parking lot.
- 18 Q -- the photo evidence?
- 19 A The parking lot.
- 20 Q What year was this?
- 21 A Same year as this happened.
- 22 Q Close in time to it happening?
- 23 A Yes.
- 24 Q Now, The Palomino Club was a place where a lot of drugs
- 25 were run through, correct?

1 A Correct.

2 Q And that forms in part the basis of your belief that
3 this was a drug hit gone bad, right?

4 MS. WILKENS: I would object. 403.

5 THE COURT: His opinion's irrelevant.

6 BY MR. EVANS:

7 Q Did anyone ever tell you that you had contact within
8 the drug trafficking community that these murders had
9 something to do with drug trafficking?

10 A I can't answer that.

11 Q Why can't you answer that, sir?

12 A You're putting me in jeopardy of my life.

13 Q Why would your life be jeopardized if you answer the
14 question?

15 A I'll be glad to tell your Honor, but I'm not going to
16 tell on the record.

17 THE COURT: Repeat the question. It's hearsay.

18 MR. EVANS: I didn't think there was an objection.

19 THE COURT: So I'll sustain it, not on
20 unwillingness to testify but on hearsay grounds.

21 MR. EVANS: Excuse me one moment, your Honor.

22 (Pause.)

23 THE WITNESS: I have no representation here or
24 anything. I'm cooperating with the justice office.

25 THE COURT: We'll see if we're finished.

1 THE WITNESS: Okay.

2 (Pause.)

3 MR. EVANS: Your Honor, may we have a break?

4 THE COURT: Yes, you may. You may.

5 MR. EVANS: Thank you.

6 MR. ALEXANDER: 10 minutes, your Honor? Would
7 that be good?

8 THE COURT: We'll take a 15- -- want to take our
9 15-minute afternoon recess break? And then the -- we'll
10 resume at 4:00 o'clock.

11 MR. EVANS: Your Honor, may I request permission
12 to play the tape-recorded interview of Mr. Ruiz?

13 THE COURT: No, because it's not evidence and I've
14 got a transcript here. So you can ask him whether he said
15 that. But as far as playing the tape, that's not necessary.

16 MR. EVANS: Very well.

17 THE COURT: For any inconsistent statement.

18 (Proceedings recessed briefly.)

19 THE COURT: We're back in session a little bit
20 early. I've handed out an Order filing the report of Dr.
21 Melton and permitting payment for Dr. Melton. You need to
22 get the proper forms --

23 MR. ALEXANDER: Okay.

24 THE COURT: -- from the CJA. There's a special --

25 MR. ALEXANDER: I think we got those last time.

1 THE COURT: And we have yet to -- I think we have
2 yet to see them.

3 MR. ALEXANDER: Oh, I'm sorry. You're right.

4 THE COURT: A percipient witness is a marshal's
5 form.

6 MR. ALEXANDER: Yes.

7 THE COURT: There's a separate capital case
8 form --

9 MR. ALEXANDER: Okay.

10 THE COURT: -- that you need to fill out in order
11 to get her paid. That comes from a different pot of money.

12 MR. ALEXANDER: All right. Can I mention one
13 thing about Dr. Melton?

14 THE COURT: Sure.

15 MR. ALEXANDER: I spoke with her to try and
16 understand the support and understand what more she
17 indicates that she needs to do, and she said she would be
18 available by telephone next Friday to explain to the
19 Court -- and we'll be here --

20 THE COURT: I don't need her here.

21 MR. ALEXANDER: -- August 13th?

22 THE COURT: No. No, I don't. I don't need her
23 here.

24 MR. ALEXANDER: No. I didn't mean she'll be here.
25 We'll be here.

1 THE COURT: We'll be here.

2 MR. ALEXANDER: Yes.

3 THE COURT: Yes. Oh, I was thinking that you were
4 going to bring her out.

5 MR. ALEXANDER: No, no, no, no, no. No, no, no.

6 THE COURT: Okay. And she's available by phone if
7 we need her?

8 MR. ALEXANDER: And she's available by telephone
9 to explain what her report means to your Honor and to
10 counsel and to indicate -- explain to your Honor what
11 further work in the case she, I guess, would like or thinks
12 should be done so it can be finalized. That's pretty much
13 it.

14 MS. WILKENS: Well, your Honor, I'm out --

15 MR. ALEXANDER: And she also said she's happy to
16 talk to Ms. Wilkens. So --

17 MS. WILKENS: Well, I have reviewed the report and
18 I have no questions for Dr. Melton because her report is
19 quite clear that she is unable to exclude three members of
20 the Ryan family from all the evidence here. So I don't
21 believe any further testing is necessary, regardless of her
22 recommendation.

23 THE COURT: I'm going to digest the report and
24 then I'll let you know on Friday.

25 MR. ALEXANDER: Well, I certainly think that we

1 want to put on the record some information that came up that
2 she can explain that I don't think leaps off the page from
3 the report relating to the samples, and we have a problem,
4 you know, to tell you. The known samples of Mr. Cooper that
5 were sent were not clean samples. They were contaminated
6 and tainted, and that is an issue that affects her being
7 able to complete the report.

8 THE COURT: If we were never going to -- we never
9 expected that it was going to be Cooper. We stipulated that
10 it was not going to be Cooper.

11 MS. WILKENS: Your Honor --

12 THE COURT: So that's a red herring.

13 MR. ALEXANDER: No --

14 MS. WILKENS: Yeah, and I apologize. I apologize.
15 The lab did not re-package the victim samples because of
16 time and because of the -- you know, the necessity of
17 documenting everything. So they shipped all of the
18 reference samples that the Court ordered, but included in
19 the package was Mr. Cooper's. It was not our intention to
20 have his sample typed because from the beginning of time
21 everyone has agreed that the evidence hairs could not
22 possibly be Mr. Cooper's.

23 THE COURT: Right. Well, let's -- we have Mr.
24 Ruiz. Let's finish Mr. Ruiz now.

25 MR. ALEXANDER: All right. Because I think --

1 that's why you need to hear from Dr. Melton, because what
2 Ms. Wilkens has said is inaccurate, and Ms. Melton can
3 describe that it is not the hairs that were sent that we're
4 talking about. It is the known sample that was sent, and
5 that's been contaminated. And there is a very serious issue
6 about that. So we'll deal with it.

7 THE COURT: All right. Thank you.

8 I want to make it clear, if you call (sic) a
9 question that calls for hearsay, the Court will sustain it
10 If the question goes beyond San Bernardino County, the Court
11 will sustain that, as well. I think we're almost to the
12 end, so let's try to wrap him up today.

13 CROSS EXAMINATION (RESUMED)

14 BY MR. EVANS:

15 Q Mr. Anthony-Ruiz, do you know where Jim Parsons is
16 today?

17 MS. WILKENS: Objection. 403. Relevance.

18 THE COURT: Sustained.

19 BY MR. EVANS:

20 Q Did you while working with the DEA learn about any
21 suspected drug trafficking -

22 MS. WILKENS: Objection. Relevance. 403.

23 THE COURT: Let him finish the question.

24 BY MR. EVANS:

25 Q Did you while working with the DEA learn about any

1 suspected drug trafficking in Chino, California?

2 MS. WILKENS: Objection. Relevance.

3 THE COURT: 403. Sustained.

4 BY MR. EVANS:

5 Q Did you while working with the DEA learn about any
6 involvement in the -- or suspected involvement in the Ryan-
7 Hughes murders by the Mayor of Chino, California?

8 MS. WILKENS: Objection. Relevance, 403, and
9 vague.

10 THE COURT: Like from whom?

11 BY MR. EVANS:

12 Q Did you learn while working as a DEA confidential
13 informant -- from any source, your Honor -- of any
14 involvement by the Mayor of Chino --

15 THE COURT: If you revise that to be the
16 investigating agency or San Bernardino County Sheriffs, then
17 I'll permit that.

18 BY MR. EVANS:

19 Q To include San Bernardino County, sir.

20 A No.

21 MS. WILKENS: Objection. Relevance. 403. It is
22 extending beyond San Bernardino County as phrased.

23 MR. EVANS: No.

24 THE COURT: Well, narrowing it down to from San
25 Bernardino County Sheriff or District Attorney's Office of

1 the involvement of the Mayor of Chino, then I'd permit that.
2 And he's answered "no."

3 MR. EVANS: Yes, your Honor. Perhaps this would
4 be illustrative to the Court.

5 BY MR. EVANS:

6 Q Sir, in your role as a confidential informant to the
7 United States Drug Enforcement Agency -- that was your role,
8 right, with Federal DEA?

9 A Well, I understood it was my role was with the DEA of
10 Riverside Sheriff's Department. They were just that
11 Sheriff's Department there. That's where they were out of.

12 Q But was it -- does --

13 THE COURT: So we're not going to go in --

14 MR. EVANS: Well, your Honor, I need to clarify
15 this, if I may.

16 THE COURT: I don't think so.

17 MR. EVANS: Well, he's used the term "DEA" which
18 refers to a federal agency, and as a confidential informant
19 he should know the difference between the two, and I need to
20 clarify that. Otherwise, it doors everything that has
21 transpired.

22 THE COURT: Still doesn't -- whether it's DEA or
23 Riverside, it doesn't translate to San Bernardino.

24 MR. EVANS: But DEA has jurisdiction within the
25 County of San Bernardino, your Honor.

1 THE COURT: But they weren't -- DEA was not
2 involved in this investigation, so that would be --

3 MR. EVANS: Well, that's what we're trying to find
4 out.

5 THE COURT: DEA was not involved.

6 MR. EVANS: We're trying to find out if DEA --

7 THE COURT: DEA for purposes of any Brady
8 violation was not involved in this and would have no
9 obligation to turn over information to the Defense.

10 MR. EVANS: Well, to the extent, your Honor, that
11 the Drug Enforcement Agency has or had information regarding
12 the facts or circumstances surrounding these murders, and
13 this person is a confidential informant who had contact at
14 that time of these murders with the DEA in that region, the
15 Inland Empire --

16 THE COURT: That's hearsay.

17 MR. EVANS: -- then he should be asked whether he
18 gathered information from the DEA on that subject. He
19 should be allowed to testify as to what he learned from the
20 DEA regarding San Bernardino involvement. And he has now
21 said he took -- takes the Fifth. He said he's worried about
22 his life. He's unwilling to give us that information.

23 THE COURT: Because you're going beyond the scope,
24 so I -- it's hearsay. The Court sustains it. You may ask
25 him about anything pertaining to the San Bernardino

1 Sheriff's Department or the investigating agency. Anything
2 beyond that is 403.

3 BY MR. EVANS:

4 Q Can you name one person on the street that gave you the
5 information about the Ryan-Hughes murders as scapegoating,
6 the drop the load and all that stuff? Can you just --

7 MS. WILKENS: Objection. 403.

8 THE COURT: It calls for hearsay

9 BY MR. EVANS:

10 Q Did you tell investigators, sir, that Chino and
11 Riverside and that area is a small community and that
12 everybody knows that this is the drug capital of the world?

13 A Yes.

14 MS. WILKENS: Objection.

15 THE COURT: Overruled.

16 BY MR. EVANS:

17 Q What kind of drugs predominantly are involved in that
18 region?

19 MS. WILKENS: Objection. Lack of foundation.

20 THE COURT: Yeah. We're not -- he's not an expert
21 in --

22 MR. EVANS: He's a confidential informant with the
23 DEA.

24 THE COURT: We're not calling -- where and when to
25 hold an evidentiary hearing is discretionary with the Court.

1 We're at the point of the proceedings where the Respondent
2 has objected to any need for an evidentiary hearing with
3 respect to Mr. Ruiz. The Court has agreed to hear Mr. Ruiz
4 on certain issues. Now that I've heard his testimony, and
5 you're free to ask him about whether he knows of
6 information, firsthand information, but pertinent. You may
7 do that.

8 MR. EVANS: Thank you, your Honor.

9 THE COURT: Subject to my ruling on objection.

10 MR. EVANS: Understood. And we appreciate the
11 Court's patience.

12 BY MR. EVANS:

13 Q Mr. Ruiz, you testified earlier today that you were
14 privy to some photographs of the murder scene, right?

15 A Yes.

16 Q And you said then that these photographs of the murder
17 scene were shown to you right around the time of the murder,
18 right?

19 A Right.

20 Q And you said that those photographs were shown to you
21 outside The Palomino Club at about 3:00 in the morning,
22 right?

23 A Correct.

24 Q Okay. Would you please refer -- would you please
25 refer, sir, to page 36 of the transcript of your tape-

1 recorded interview with State Department of Justice
2 investigators?

3 THE COURT: Page thirty --

4 MR. EVANS: Page 36, your Honor.

5 THE COURT: Thank you.

6 BY MR. EVANS:

7 Q Sir, didn't you say to investigators that you saw the
8 pictures and they had to have been shown to you by law
9 enforcement?

10 A Yes.

11 Q Is that your truthful statement to investigators?

12 A From what I could recall at that time.

13 Q And now you're telling us that you were shown by people
14 outside of a nightclub at 3:00 in the morning?

15 A Right.

16 Q So which one is it?

17 A Well, now that, you know, you review everything and
18 everything, because it was just like it happened like this.

19 It wasn't something that they told me, "Well, get ready to"

20 thing. It was just somebody showed up at my door. You

21 know, something that happened years ago. So now, reviewing

22 and remembering kind of things that have happened, it was --

23 you know, I didn't know where the photos came from, but I

24 thought the only place it could come from was from them.

25 But recalling exactly kind of what happened that night, it

1 was outside of The Palomino Station and people were saying,
2 "Do you want to see a real homicide? Look at this," and
3 passing these pictures around and stuff.

4 Q So when you said to investigators that it had to have
5 been -- your words, "it had to have been" -- law
6 enforcement --

7 A It says I can't first, though.

8 Q Right. But you said it had to have been, right?

9 A It says, "But I don't remember."

10 Q How you were shown, right? It says, question, "Was it
11 by law enforcement?" Page 36, line 11.

12 A Uh-huh.

13 Q "Was it by law enforcement?"

14 Answer, "I can't -- it had to have been, but I don't
15 remember how."

16 A It had to have been at that time, because I didn't
17 remember how. I didn't remember standing out there till
18 later on. I put two and two together. Oh, yeah, that's
19 what we were doing at that time.

20 Q Were they black and white pictures?

21 A I'm sorry?

22 Q Were they black and white pictures?

23 A Yes.

24 Q Were they glossy?

25 A I recall they were black and white.

1 Q Were they 8 x 10's?

2 A No. They were I think 8 x 6.

3 Q How many pictures were there?

4 A Probably four

5 Q Did you ask the people that were showing you these
6 photographs of the crime scene in this case how they got
7 those photographs?

8 A No.

9 MS. WILKENS: Objection. Lack of foundation. We
10 don't know how he'd know they're the crime scene photos. I
11 mean, they --

12 THE COURT: Overruled.

13 BY MR. EVANS:

14 Q You didn't ask that?

15 A No.

16 Q And you don't know how those photographs came into the
17 possession of those people outside The Palomino right around
18 the time of the murder?

19 A No.

20 Q And do you know who these people were?

21 A No, I didn't know.

22 Q Were they drug traffickers?

23 A I don't know.

24 Q Who were they?

25 A People hanging out there.

1 Q Were they strangers?

2 A Pretty much.

3 Q Or was it law enforcement?

4 A No. No, it wasn't law enforcement.

5 Q So I want to be sure to ask you, were all the responses
6 you gave to investigators that are a part of this exhibit,
7 this transcript you've been reading from, were they all true
8 responses?

9 A As far as I recall.

10 Q So you'd swear to those responses

11 A As far as I recall.

12 Q Pardon me.

13 Just to be clear, did your responsibilities as a
14 confidential informant for DEA cause you to work at any time
15 in San Bernardino County?

16 A No.

17 Q Did you at any time in connection with the work you
18 were doing for the DEA cross the border from Riverside to
19 San Bernardino County as a part of your investigation in
20 your work for DEA?

21 A No.

22 Q So you never learned of information that came from San
23 Bernardino in your role as a confidential informant?

24 MS. WILKENS: Objection. Relevance. Exceeds San
25 Bernardino County law enforcement.

1 THE COURT: Sustained.

2 BY MR. EVANS:

3 Q You never learned of any information that came directly
4 or indirectly through San Bernardino officials, police
5 officials of any type at any time during your role as a
6 confidential informant?

7 MS. WILKENS: Objection. 403. Outside San
8 Bernardino County.

9 THE COURT: Directly, yes. You may ask about
10 directly.

11 BY MR. EVANS:

12 Q Do you understand the question, sir?

13 A Yes.

14 Q Would you please answer it?

15 A No.

16 Q Now, you relief on street information as part of your
17 job, right, as a confidential informant?

18 A Yes.

19 Q And is it your testimony for this Court that at no time
20 whatsoever -- that you never gathered information from
21 anyone in San Bernardino County law enforcement at any time?

22 A No.

23 MR. EVANS: Thank you, your Honor. I have nothing
24 further at this time.

25 MR. ALEXANDER: I think he does, your Honor.

1 Sorry.

2 (Pause.)

3 THE COURT: We'll --

4 MR. ALEXANDER: I think her Honor got that point
5 but I'll ask the question for my partner's sake.

6 FURTHER CROSS EXAMINATION

7 BY MR. ALEXANDER:

8 Q Sir, is it your testimony, Mr. Ruiz, that drug
9 trafficking in the Inland Empire stops at the border of
10 Riverside, to your knowledge?

11 MS. WILKENS: Objection. Argumentative.

12 THE COURT: Well, I'll take judicial notice that
13 there's lots of drugs everywhere.

14 BY MR. ALEXANDER:

15 Q Describe, finally, the pictures that you've seen at the
16 murder scene.

17 A From what I recall, it was just -- looked like a bloody
18 mess.

19 Q Did you see any footprints on those photos?

20 A (No audible response.)

21 Q Do you know what happened to those photographs?

22 A No.

23 MR. ALEXANDER: Thank you.

24 THE WITNESS: I did bring my license up.

25 THE COURT: He brought his license back.

1 THE WITNESS: Yeah.

2 MR. ALEXANDER: Good. No wonder you got in here
3 so quickly. Thank you, Mr. Ruiz. We appreciate your
4 cooperation.

5 Thank you, your Honor. Nothing further.

6 MS. WILKENS: Nothing further, your Honor.

7 THE COURT: Okay. Nothing further. You may step
8 down.

9 I did want to talk about the motion for
10 reconsideration and --

11 MR. ALEXANDER: May I make a request, your Honor?

12 THE COURT: Sure.

13 MR. ALEXANDER: I apologize for interrupting.

14 THE COURT: Oh, you need to leave?

15 MR. ALEXANDER: I have a 5:00 o'clock plane. And
16 I hate to put my mercy on the Court, but there's an 11-year-
17 old girl who happens to my daughter who will be very
18 disappointed if I don't --

19 THE COURT: I know, but let me just talk about the
20 motion for reconsideration briefly and then see if I can get
21 -- and then we'll see if we can get you on your way.

22 MR. ALEXANDER: Thank you, your Honor.

23 THE COURT: I've made the trip many times.
24 There's -- okay.

25 So, recognizing that the Respondent has objected

1 to Dr. Ballard, do you think it would -- but there --
2 according to the information, there's only two places in the
3 world that have the tests (sic) available to do this test,
4 the FBI and the National --

5 MR. ALEXANDER: Medical.

6 THE COURT: -- Medical Lab.

7 MR. ALEXANDER: The equipment.

8 THE COURT: The equipment. And you've searched
9 high and low for an expert.

10 MR. ALEXANDER: Let me -- if I may update your
11 Honor since this is continued, all right? It's a continuing
12 process. And we have tried, although I don't think it's
13 necessary, to limit Dr. Ballard's or Mr. Vickery's role as
14 much as possible, all right? And that's why we've used --
15 we've gone to Dr. DeForest. I'm also talking to Michael
16 Bawdin (phonetic) who your Honor may be aware of is the
17 Chief Medical Examiner of the City of New York -- he's
18 world-renowned -- to see if he has suggestions. Another
19 gentleman by the name of Mark Stolarow (phonetic) who's head
20 of the lab for Selmark (phonetic) in a continuing effort.
21 But I -- we've tried to limit it to just, you know, doing
22 the test, not the selection of the materials. And as I
23 think Dr. DeForest has informed you, that really needs to be
24 done. And in some sense, if we could get that step going,
25 that doesn't involve Dr. Ballard at all but involves Dr.

1 DeForest -- and Mr. Sims wants to be there, let him be
2 there. If he doesn't, I guess we can't force him to be
3 there.

4 THE COURT: Well, there shouldn't be -- one, there
5 shouldn't -- a couple of points. There shouldn't be direct
6 communication with Dr. DeForest and Mr. Sims. The AG has
7 counsel. You have counsel. So if they want to communicate
8 with somebody, they should communicate with you and then you
9 can talk to each other. But there shouldn't be the direct
10 communication.

11 MR. ALEXANDER: Okay. We did that I guess from a
12 professional point of view, but we won't do it anymore.

13 THE COURT: Unless the Court has said, "Here's an
14 Order and you're to then get together and do that."

15 MR. ALEXANDER: Well, candidly, and I think we may
16 have put it in there, that Mr. Sims be allowed to talk to
17 Dr. DeForest and see if they -- you know, if Sims doesn't
18 want to participate, DeForest is done. He's charged what
19 he's done. He's the gentleman who was the instructor at
20 Berkeley of all these people -- Blake and a whole bunch of
21 these people. He's kind of the --

22 THE COURT: DeForest?

23 MR. ALEXANDER: DeForest is.

24 THE COURT: Right. Well, let me ask this. Would
25 you have an objection -- who is the person from -- the

1 person from the FBI?

2 MR. ALEXANDER: LeBeau.

3 THE COURT: LeBeau. Would the parties have an
4 objection if we did a double bind test with LeBeau doing one
5 portion after DeForest picks them and randomly, according to
6 a protocol, we have them do the silk and send the samples
7 out. The samples are randomly listed so nobody knows. And
8 if LeBeau will do it with Ballard or someone else observing,
9 and then I'll flip that, Ballard or someone else does it and
10 LeBeau observes their -- or Sims. Sims is really not at --
11 and then there -- it's a double bind task.

12 MR. ALEXANDER: Well, I don't think we have any
13 problem with that.

14 MS. WILKENS: Your Honor, may I be heard on that?

15 MR. ALEXANDER: Again -- hold on. Let me finish
16 and then you'll call my daughter.

17 If I could get back to the Court on Monday, but I
18 think that -- I don't think that's a problem. I think what
19 needs to be done and the most important thing. We've
20 learned for the first time, and I think we pointed this out,
21 that the prior cuttings, that they were going to possibly be
22 used in the stains, and any fluid -- okay? -- is tainted
23 by --

24 THE COURT: As a buffer?

25 MR. ALEXANDER: Yeah, as a buffer. So that's out

1 of the picture. So now we've got to go back to the shirt.

2 THE COURT: Let me ask. Of that one little sample
3 area where it was just Kevin Cooper's blood --

4 MR. ALEXANDER: Well, we don't know that because
5 there's a question mark on the sub -- two pages back, it
6 says Kevin Cooper and question mark. If you look at that,
7 it's unclear. If you look at the 169, it says that. But if
8 you go two, two or three pages back, it's unclear. All
9 right? On the blue -- you know, that blue --

10 THE COURT: I'm talking about --

11 MR. ALEXANDER: Yes. I think I have it in mine.

12 THE COURT: 6-G.

13 MR. ALEXANDER: Right. If you look at 6-G --

14 THE COURT: Is Cooper.

15 MR. ALEXANDER: -- three pages back from Exhibit
16 169 you'll see that there's a question mark. And if I'm not
17 mistaken, in the report that Myers submitted, he indicates
18 that that's a mixture.

19 THE COURT: 6-G --

20 MR. ALEXANDER: I don't have --

21 THE COURT: -- was a smear, Cooper. Is there any
22 part of that cutting that would be still available that was
23 not done by the buffer?

24 MR. ALEXANDER: What Dr. DeForest is saying is, "I
25 need to look at the shirt." He just wants to look at it,

1 you know, to determine whether there's anything that,
2 frankly, remains to be tested.

3 THE COURT: Because of the buffer?

4 MR. ALEXANDER: Well, the buffer's taken apart,
5 everything that's been cut out. That's done. So now we've
6 got to go back to the shirt.

7 THE COURT: But without Dr. DeForest looking at
8 it, it could easily be determined whether there is another
9 portion of the 6-G that is solely --

10 MR. ALEXANDER: That was not subject to the
11 buffer.

12 THE COURT: That's not subject to the buffer. It
13 appears to the Court from the way the picture is done that
14 there would be an adjacent spot that was still there that is
15 still solely Cooper, not subject to the buffer. So we don't
16 have the mixture issue.

17 MR. ALEXANDER: I don't know the answer to your
18 question.

19 THE COURT: Then I know you're in a --

20 MR. ALEXANDER: No, no. But I want to point out
21 that I don't -- the assumption that that 6-G is clear I
22 think is belied by a slide in that -- which I don't think I
23 have with me, that indicates that 6-G is Cooper and it says
24 question mark. So I don't know that that information is
25 accurate.

1 THE COURT: Okay. And let me ask you about
2 LeBeau.

3 MS. WILKENS: Your Honor, we would object and we
4 question very seriously that there are two labs and only two
5 labs with this equipment. We don't believe that to be true,
6 and I would ask that they identify with great specificity
7 what this equipment is, because as you know, there are many
8 academic and private laboratories who have state of the art
9 equipment. And I just find it very difficult to believe
10 that there are only two laboratories with the appropriate
11 equipment. There's the City of Hope up in Los Angeles.
12 There's Scripps in --

13 THE COURT: Well, let's let him get to his spot.

14 MR. ALEXANDER: I'll do it. I'll do it. Monday
15 I'll let you --

16 MS. WILKENS: Well, also, your Honor --

17 And Mr. Alexander, if you want to make your
18 flight, you might let me just make a quick point.

19 MR. ALEXANDER: Yeah. That's true.

20 MS. WILKENS: I am extremely concerned by the
21 confusion between criminalist and analytical chemist. And
22 Mr. Alexander keeps talking to you about criminalist and
23 limiting Dr. Ballard's role. The analytical chemistry must
24 be done properly. It must be done by a qualified analytical
25 chemist in a qualified lab. And the fact that they have not

1 produced an independent analytical chemist, and the resume
2 that your Honor has is similar to junior college education.

3 THE COURT: That's why I'm not happy with that
4 one.

5 MS. WILKENS: And we don't know if Mr. LeBeau
6 would be permitted to do this by the FBI.

7 THE COURT: Could you by next, by our next meeting
8 where we've got witnesses, check these things out to the
9 extent you can? If there is any remaining portion of the
10 part that at least preliminarily is determined to be solely
11 Cooper does not have the buffer. And then what I'm thinking
12 about is possibilities, and then we can discuss that
13 further. We'll let you go now and we'll have our witnesses.

14 MR. ALEXANDER: Who are they going to be?

15 THE COURT: Please, on the witnesses -- we've got
16 a whole list.

17 MS. WILKENS: Your Honor, what I'm doing is I'm
18 obviously complying with the Court's order. We have to
19 contact the witnesses, get them under subpoena and get them
20 here.

21 MR. ALEXANDER: Really?

22 MS. WILKENS: And so we're doing it the best we
23 can. I've told Mr. Alexander it's not in the Orders, in
24 which they're listed in the Order, which is apparent in his
25 assumption.

1 THE COURT: Correct. It's any and all of them.

2 MR. ALEXANDER: Look, it's real easy, okay? And

3 that's --

4 MS. WILKENS: It is not.

5 MR. ALEXANDER: I'll tell you why. Please excuse
6 me again.

7 MS. WILKENS: Well, I'm not going to be at fault.
8 You tell your daughter it's not my fault.

9 MR. ALEXANDER: Right. I'll --

10 Okay. We have Nancy Simendich right here, real
11 easy. Her husband works for the Sheriff's Department.
12 There is no reason we couldn't have had her before Ruiz. We
13 have Ms. Holman. She's apparently on vacation. No reason
14 she can't be here. We know where Mr. Beltz is. No reason
15 he can't be here.

16 THE COURT: I'm sure you can have some people
17 enough for the 13th.

18 MR. ALEXANDER: And we'll go subpoena them, then.
19 You left it up to them. I'm happy to go subpoena these
20 people.

21 THE COURT: Well, it's a cost issue.

22 MR. ALEXANDER: Well, all right. Fair enough.

23 THE COURT: That's a cost issue.

24 MR. ALEXANDER: No, no, no. Good point. Good
25 point.

1 I can't remember who else is on the list. We do
2 want to pursue this Crown Victoria car, your Honor. We can
3 talk about that next time.

4 THE COURT: Well, remember, whatever is on the
5 request for evidentiary hearing is opposed by the
6 Respondent --

7 MR. ALEXANDER: We're going to reply.

8 THE COURT: -- and the Court will then make a
9 determination, and we're methodically going through this
10 given the Court's schedule and counsels' schedule. And
11 because of my own schedule, it's more important that we do
12 proceed in the order that we set.

13 MR. ALEXANDER: Would it be possible to have a
14 telephone conference with the Court prior to next Friday,
15 although we can do it next Friday, I guess?

16 THE COURT: No. I think next Friday is fine.

17 MR. ALEXANDER: Next Friday's fine. Yeah. Fair
18 enough.

19 THE COURT: So just be prepared for those
20 witnesses. And then I had told counsel to reserve a whole
21 other week.

22 MR. ALEXANDER: Yeah. We've responded to that.
23 Maybe we can discuss that on the 13th.

24 THE COURT: And are there any dates of that week
25 that --

1 MR. ALEXANDER: The 30th and 31st.

2 THE COURT: -- are available?

3 MR. ALEXANDER: Are available.

4 THE COURT: Okay. So we'll do --

5 MS. WILKENS: That's not what you scheduled.

6 MR. ALEXANDER: No, no. You scheduled the 24th to
7 the 27th.

8 THE COURT: Right. And are those --

9 MR. ALEXANDER: That's when Mr. Hyle is moving.
10 Now, depending upon who the witnesses are going to be --
11 depending upon who the witnesses are going to be, we may be
12 able to use some dates, okay?

13 THE COURT: Okay.

14 MR. ALEXANDER: But the reason we're able to do
15 this pro bono is because we work on other cases.

16 THE COURT: Yes. I do understand that and --

17 MR. ALEXANDER: And I hope -- you know, Chief
18 Justice George has encouraged these firms to do this sort of
19 work and we're happy to do it.

20 THE COURT: It's very beneficial. And just
21 remember, I take over -- I relinquish my position as Chief
22 Judge in -- at the end of this year, and then I have 100
23 percent case load. And we've got a lot of criminal cases.

24 MR. ALEXANDER: Yeah. Yeah.

25 THE COURT: And so I have a lot of reasons why

1 this time works out well for me. Longer works out poorer
2 for me. It's fresh in my mind. We're working through it
3 and we're going to continue to do that, respecting counsel.
4 I think we've been respectful of counsels' schedule.

5 MR. ALEXANDER: Oh, I'm not suggesting to the
6 contrary.

7 MS. WILKENS: Your Honor, I will indicate to the
8 Court, as we've been doing, I will file notices with the
9 Court, faxing them to counsel, as soon as we make a witness
10 available for a certain date.

11 THE COURT: Okay.

12 MS. WILKENS: We're doing it as quickly as
13 possible.

14 And also, we need to talk and locate these
15 witnesses. We need to talk to them and locate them. We're
16 working very hard and very diligently. And Mr. Alexander
17 wants us to present them by topics and by subjects --

18 MR. ALEXANDER: No, no, mo. mo.

19 MS. WILKENS: -- and frankly, it's just not do-
20 able.

21 Now, with respect to --

22 THE COURT: No. I just listed and they should be
23 ready for any and all of those witnesses, but please give
24 counsel consideration.

25 MS. WILKENS: Your Honor asked to hear from Laurel

1 Epler who is in her mid 60's. She lives in Florida.

2 Cooper's counsel has interviewed her. We have interviewed
3 her, as well. She has absolutely no recollection about
4 reporting an item of clothing to the Sheriff's Department.

5 THE COURT: With respect to her, it would be
6 unusual. She has -- why don't you just get a declaration?

7 MS. WILKENS: What we're going to do, your Honor,
8 is, it's a tape-recorded interview. We will have a
9 transcript prepared. We will lodge the tape and the
10 transcript and explain to your Honor her complete lack of
11 recollection, and then you can decide.

12 MR. ALEXANDER: Well, you can do that on a joint
13 call, both sides on the phone, and then they can ask her
14 questions and we'll --

15 MS. WILKENS: No, no. We've already spoken to
16 her. She has no recollection. We have a taped interview.
17 I'll make it available to the Court and the Court can
18 decide.

19 MR. ALEXANDER: Well, we've spoken to her and it's
20 not entirely accurate she has no recollection.

21 MS. WILKENS: Well, no relevant recollection.

22 MR. ALEXANDER: But she may be unnecessary once
23 we --

24 THE COURT: That log, according to the Respondent,
25 was turned over to trial counsel.

1 MS. WILKENS: It was, your Honor.

2 MR. ALEXANDER: Your Honor, you will find no -- if
3 we take Mr. Kochis declaration and his document tracking
4 system, you will find no numbers, as he said, represented
5 were put on documents turned over on any of those logs
6 except the handwritten document.

7 THE COURT: We'll look at that on Friday.

8 MR. ALEXANDER: And we'll have to look at that.

9 THE COURT: Okay. I'll let you go. I see you
10 still have a possibility.

11 MR. ALEXANDER: I have a possibility.

12 THE COURT: Best place for catching a cab --

13 MR. ALEXANDER: Yes, your Honor.

14 THE COURT: -- is right over the -- either
15 Greyhound bus or right over by the --

16 (Proceedings concluded.)
17
18
19
20
21
22
23
24
25

1 I certify that the foregoing is a correct
2 transcript from the electronic sound recording of the
3 proceedings in the above-entitled matter.

4
5 Cheryl Peters
Transcriber

8/23/04
Date

6
7 FEDERALLY CERTIFIED TRANSCRIPT AUTHENTICATED BY:

8 L.L. Francisco
L.L. Francisco, President

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25